

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY**

DEPT: Public Works

BOARD AGENDA: 8.2
AGENDA DATE: February 7, 2023

SUBJECT:

Approval to Consider and Adopt a Resolution of Necessity to Acquire Real Property, or Interest in Real Property by Eminent Domain for the North County Corridor Project- Phase I Property Owner: Wolfgang E. and Victoria E. Bach, Trustees, The Bach Family Trust, U/A DTD April 21, 2000, Assessor's Parcel Number 083-002-034

BOARD ACTION AS FOLLOWS:

RESOLUTION NO. 2023-0058

On motion of Supervisor B. Condit Seconded by Supervisor Chiesa
and approved by the following vote,

Ayes: Supervisors: B. Condit, Chiesa, Withrow, Grewal, and Chairman C. Condit

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST: 
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Public Works

BOARD AGENDA:8.2
AGENDA DATE: February 7, 2023

CONSENT

CEO CONCURRENCE: YES

4/5 Vote Required: Yes

SUBJECT:

Approval to Consider and Adopt a Resolution of Necessity to Acquire Real Property, or Interest in Real Property by Eminent Domain for the North County Corridor Project-Phase I Property Owner: Wolfgang E. and Victoria E. Bach, Trustees, The Bach Family Trust, U/A DTD April 21, 2000, Assessor's Parcel Number 083-002-034

STAFF RECOMMENDATION:

1. Find that the public interest and necessity require the North County Corridor Phase I Project.
2. Find that the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. Find that the interest in the property (APN 083-002-034) sought to be acquired and described in the attached Resolution of Necessity is necessary for the Project.
4. Find that the offer required by Section 7267.2 of the Government Code has been made to the owner, Wolfgang E. and Victoria E. Bach, Trustees, The Bach Family Trust, U/A DTD April 21, 2000
5. Adopt a Resolution of Necessity in the form attached hereto as Attachment 1.
6. Authorize County Counsel to initiate eminent domain proceedings to acquire the property interest described therein.

DISCUSSION:

The North County Corridor (NCC) Phase I Project (Project) proposes to be a high-capacity expressway that will bypass around the Cities of Modesto, Riverbank, and Oakdale connecting the eastern portion of the County to State Route 99. The 18-mile NCC Project will build a west-east expressway that will improve regional network circulation, relieve existing traffic congestion, reduce traffic delay, accommodate future traffic, benefit commerce, and enhance safety by eliminating an at-grade railroad crossing.

The existing transportation system in Northern Stanislaus County, including the existing State Route 108, is a network of traditional highways, freeway (State Route 99), arterial roadways and local streets that serve a combination of interregional, regional and local traffic. Traffic is highly congested during peak hours, and traffic congestion is expected

to increase as development in the region continues. The existing network lacks a high-capacity transportation facility to serve west-east interregional and regional traffic moving through the Project area.

The North County Corridor Phase I received a grant from the U.S. Department of Transportation for the initial segment of the NCC Project in the amount of \$20 million under the - Better Utilizing Investments to Leverage Development (BUILD) program. The BUILD grant segment is a 3-mile portion beginning at the SR-219 (Claribel Road) and Oakdale Road intersection. The North County Corridor Phase I also received a grant from the State Trade Corridor Enhancement Program (TCEP) in the amount of \$20 million.

The Project will follow a parallel alignment of Claribel Road, constructing grade separations over Roselle Avenue, Terminal Avenue, and the Burlington Northern Santa Fe (BNSF) Railroad tracks, extending eastward to the intersection of Claribel Road and Claus Road. The proposed Project will provide a 4-lane access-controlled facility with a median. The expressway will be accessed at key locations served by new frontage roads.

To implement the proposed Project, Stanislaus County (County) has partnered with the Stanislaus Council of Governments (StanCOG), the Cities of Modesto, Riverbank, and Oakdale, the California Department of Transportation (Caltrans) and the Federal Highway Administration (FHWA). The Project is subject to State and Federal environmental review requirements; therefore, Project documentation was prepared in compliance with both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). The draft environmental document was circulated for public review and comments from August 9, 2017, to October 16, 2017. After considering all the comments received, the Project development team identified the preferred alternative. The actions taken by both State and Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Report/Final Environmental Impact Statement (FEIR/EIS) for the Project, approved on March 13, 2020. On May 22, 2020, CEQA and NEPA requirements for the Project were satisfied with the issuance of a Notice of Determination and Record of Decision. Documents are available for review through the Caltrans and Stanislaus County websites, www.dot.ca.gov, <https://northcountycorridorphase1.com>, and incorporated herein by reference.

The design has progressed to a level of detail to precisely determine the right-of-way needs for the first phase of the Project. There are a total of 59 parcels affected and 13 of them will likely require full acquisition.

The Stanislaus County Board of Supervisors is being asked to consider the adoption of a Resolution of Necessity to acquire by eminent domain the real property set forth herein and as more particularly described and depicted in Attachment 2 - North County Corridor Phase I - Plan View.

The power of eminent domain is used by the County only as a last resort to obtain interests necessary for the Project. An offer of just compensation has been made to the owner for the full fair market value of the property interest sought to be acquired

including improvements pertaining to realty, if any, as determined by various appraisals. Staff has attempted to negotiate a settlement in good faith and will continue to do so throughout the process. Although the County has engaged the owners in an attempt to reach a negotiated settlement, as of the date of preparation of this report, a negotiated purchase has not been achieved.

California eminent domain law provides that a public entity may not commence an eminent domain proceeding on a property until its governing body has adopted a Resolution of Necessity. That resolution may only be adopted after the governing body has given the record owner of the affected property, a reasonable opportunity to appear and be heard on each of the required findings.

A notice of this hearing was sent by U.S. mail to the property owner(s) as prescribed by law. The notice stated the County's intent to consider the adoption of a Resolution of Necessity, the right of the property owner to appear and be heard on the issues set forth above, and that failure to file a written request to appear would result in a waiver of the right to appear and be heard. A copy of the proposed Resolution of Necessity being recommended for adoption is attached hereto. (See Attachment 1 — Resolution of Necessity).

The hearing on the proposed resolution relates only to the findings set forth below as they may apply to the property sought to be acquired. The fair market value of the property or interests in property sought to be acquired is not an issue, nor is the amount of the County's offer a matter for consideration at the time of the hearing.

STATEMENT OF PUBLIC USE:

Portions of the property are to be acquired for the construction of the first phase of the Project, consisting of a new west-east four-lane access-controlled expressway from the Claribel and Oakdale Road intersection along a new alignment to Claus Road. The Project begins at the Claribel and Oakdale Road intersection, heads south, then runs eastward parallel to Claribel Road on a new alignment and connects to Claus Road at the existing Claribel Road intersection. Claribel Road will also be partially realigned with this effort. The Project also includes a new interchange at Roselle Avenue, grade separated structures over the Burlington Northern Santa Fe rail line, Terminal Avenue, and the Modesto Irrigation District Main Canal, and new frontage roads to maintain access to adjacent properties. This first phase of the Project is known as the State Route 108/North County Corridor Phase I Project. The Project will:

- Improve regional network circulation
- Relieve existing traffic congestion, reduce traffic delay and accommodate future traffic on State Route 108
- Support efficient movement of goods and services
- Enhance traffic safety

While Caltrans and FHWA were the lead agency for environmental review, Stanislaus County is the lead agency for implementation and construction of the Project and is also responsible for all Right-of-Way (ROW) acquisitions needed for the construction of the

Project. Staff is currently in the process of acquiring the ROW necessary to complete the Project.

The County needs to acquire the property interest described below to certify the Project and construct the proposed Project improvements:

Property Owners: Wolfgang E. and Victoria E. Bach, Trustees, The Bach Family Trust, U/A DTD April 21, 2000

Address: 4712 Oakdale Road, Modesto, CA

Assessor's Parcel Number: 083-002-034 (CPN 9)

ROW Acquisition Area: Full fee acquisition of the entire property consisting of approximately 22.91 acres.

The property, bearing assessor parcel number 083-002-034, is zoned A-2-10 (General Ag 10 Acre) and the entire parcel contains 22.91 acres of land area. The property is improved with a two-story single-family residence containing 3,121 square feet. (See Attachment 2 — North County Corridor Phase I Project-Plan View).

The property is a flag-shaped lot. Although the Project requires only 8.46 acres of fee interest from the property, the acquisition of the fee interest will leave the remainder of the property landlocked and without legal access to a public roadway, rendering the remainder of the property a remnant. As such, the County has agreed to acquire in fee, the entire property consisting of approximately 22.91 acres as more specifically described and depicted in the Resolution of Necessity (“Subject Property”).

The County hired a Member Appraisal Institute (MAI) certified general real estate appraiser to appraise the Subject Property that the County seeks to acquire. The appraiser's opinion is that the fair market value of the Subject Property as defined by Section 1263.320 of the Code of Civil Procedure is \$1,700,000. Pursuant to section 7267.2 of the Government Code, an offer of just compensation in the full amount of the appraisal was presented to the owners of the Subject Property. (See Attachment 3 – Impasse Letter, dated November 15, 2022 with attached Offer Letter, dated July 6, 2022).

Since the date of the initial offer, OPC acquisition consultants have contacted the owner on several occasions to discuss the offer to purchase and to move forward with the acquisition process. The owner has retained counsel and has not responded or provided a counteroffer.

Staff recommends beginning the process of acquiring the ROW from the owner through the eminent domain process. Starting the eminent domain process now allows the County to obtain an order of possession while giving the owner a forum in which to make their claim for just compensation.

For each property interest to be acquired, a Resolution of Necessity must be adopted prior to the commencement of eminent domain proceedings. (See Attachment 4 - Resolution of Necessity Requirements.)

NEXT STEPS:

Should the Board approve the attached Resolution of Necessity, County staff and County Counsel will work with outside counsel to initiate court proceedings to acquire the Subject Property necessary for the Project. Throughout the process, Staff will continue to work with the owner to attempt to negotiate and finalize an agreement reflecting fair and equitable compensation for the Subject Property.

POLICY ISSUES:

The Board of Supervisors' adoption of the Resolution of Necessity is required per Section 1245.220 of the Code of Civil Procedures before condemnation proceedings may be commenced.

FISCAL IMPACT:

The cost associated with conducting the Resolution of Necessity hearing is part of the Right-of-Way Phase of the Project. This phase is currently funded by a Federal BUILD grant, local County Public Facilities Fees (PFF) and Regional Measure L funds. The total cost for this parcel is not known at this time and will be appropriated in a future Board item. The Right-of-Way costs for the NCC Project were included in the Fiscal Year 2023 Adopted Public Works Road and Bridge Project budget.

BOARD OF SUPERVISORS' PRIORITY:

The recommended actions are consistent with the Board's priorities of *Delivering Efficient Public Services* and *Enhancing Community Infrastructure*, by improving traffic safety and reducing traffic congestion on the County Road system.

STAFFING IMPACT:

Existing Public Works staff is overseeing this project.

CONTACT PERSON:

David A. Leamon, Public Works Director

Telephone: (209) 525-4130

ATTACHMENT(S):

1. Resolution of Necessity
2. North County Corridor Phase I Project - Plan View
3. Impasse Letter dated, November 15, 2022
4. Resolution of Necessity Requirements
5. Notice of Hearing dated, January 6, 2023

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
STATE OF CALIFORNIA

Date: February 7, 2023

2023-0058

On motion of Supervisor B. Condit Seconded by Supervisor Chiesa
and approved by the following vote,
Ayes: Supervisors: B. Condit, Chiesa, Withrow, Grewal, and Chairman C. Condit
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

THE FOLLOWING RESOLUTION WAS ADOPTED:

Item # 8.2

**RESOLUTION OF NECESSITY TO ACQUIRE CERTAIN REAL PROPERTY OR INTEREST IN REAL
PROPERTY BY EMINENT DOMAIN**

PARCEL APN: 083-002-034

OWNER: Bach Family Trust

BE IT RESOLVED, that the Board of Supervisors of the County of Stanislaus, State of California, hereby finds and determines as follows:

WHEREAS, Article I, section 19 of the Constitution of the State of California, California Code of Civil Procedure section 1240.010 et seq., and Government Code section 25350.5 authorizes the Board of Supervisors of any county to acquire by eminent domain any property necessary to carry out any of the powers or functions of the County; and

WHEREAS, the County of Stanislaus ("County") in cooperation with the State of California Department of Transportation ("Caltrans"), the Stanislaus Council of Governments ("StanCOG"), the Cities of Modesto, Riverbank, and Oakdale, proposes to construct a new west-east four-lane access-controlled expressway from the Claribel and Oakdale Road intersection along a new alignment to Claus Road. The project is known as State Route 108/North County Corridor Phase I Project (the "Project"); and

WHEREAS, the public interest and necessity require that the County acquire in fee, a portion of that certain real property located at 4712 Oakdale Road, in the City of Modesto, County of Stanislaus, California (CPN 9) (APN 083-002-034) for public use, namely the Project and all uses necessary, incidental or convenient thereto. The property sought to be acquired for the Project is more particularly described and depicted in Exhibits "A" attached hereto and incorporated herein by reference (the "Subject Property"); and

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA") have been satisfied for the Project as set forth in the Record of Decision issued on May 22, 2020; and

WHEREAS, notice of the hearing for this Resolution of Necessity has been properly given as required by and according to the provisions of section 1245.235 of the California Code of Civil Procedure, and a meeting has been held at which all persons whose property may be acquired by eminent domain and whose name and address appear on the last equalized County Assessment Roll have been given a reasonable opportunity to appear and be heard by the Board of Supervisors on the matters set forth in Code of Civil Procedures sections 1240.030 and 1240.510.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board of Supervisors of Stanislaus County as follows:

1. The public interest and necessity require the Project.
2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The Subject Property sought to be acquired and described by this resolution is necessary for the Project.
4. The offer required by Government Code section 7267.2 has been made to the owner(s) of record.
5. The recitals contained herein are true and correct. Furthermore, the findings and determinations contained in this Resolution of Necessity are based on and incorporate the record before the Board of Supervisors. The findings and determinations contained herein are also based on any testimony, records, and documents produced at the hearing, all of which are incorporated herein by this reference.
6. Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that the Subject Property is already devoted to a public use, the use to which the Subject Property is to be put is a more necessary public use than the use to which the Subject Property is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the Subject Property is already devoted.

7. The Subject Property is being acquired in whole or in part pursuant to the provisions of Code of Civil Procedure Sections 1240.320, 1240.330 and 1240.350, as the case may be, as substitute property necessary for a public use, for the relocation of public utility facilities, or to provide utility service to the remainder property. It is further found and determined that the taking of said substitute property is necessary for the purpose specified in Sections 1240.320, 1240.330 and/or 1240.350.

8. The County Counsel is hereby authorized to institute eminent domain proceedings in the Superior Court of the State of California for the County of Stanislaus, for the purpose of acquiring the Subject Property described herein above, and is further authorized to institute proceedings for taking pre-judgment possession of the Subject Property and to deposit the probable amount of compensation therefore, in accordance with California Code of Civil Procedure section 1255.010, as directed by the Superior Court as security for said possession. Counsel is further authorized to associate with, at its election, a private law firm for the prosecution of said proceedings. Counsel is further authorized to correct any errors or to make or agree to any non-material changes to the legal description of the property that are deemed necessary for the conduct of the condemnation action or other proceedings or transactions required to acquire the Subject Property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

ATTACHMENTS

Exhibit A - Legal Definition, Descriptions & Plat Maps

ATTEST: ELIZABETH A. KING, Clerk
Stanislaus County Board of Supervisors,
State of California



File No.

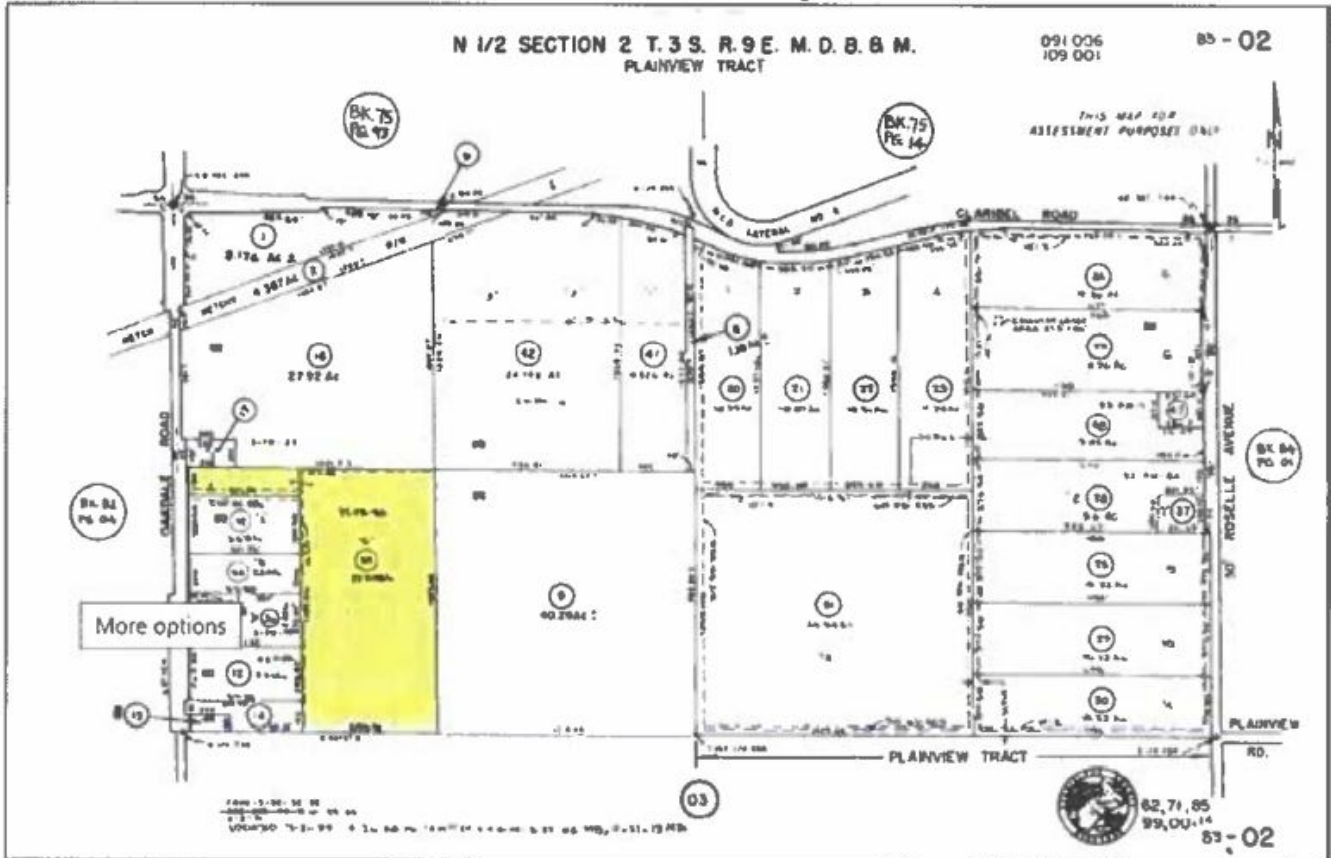
EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): **083-002-034-000**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF STANISLAUS, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

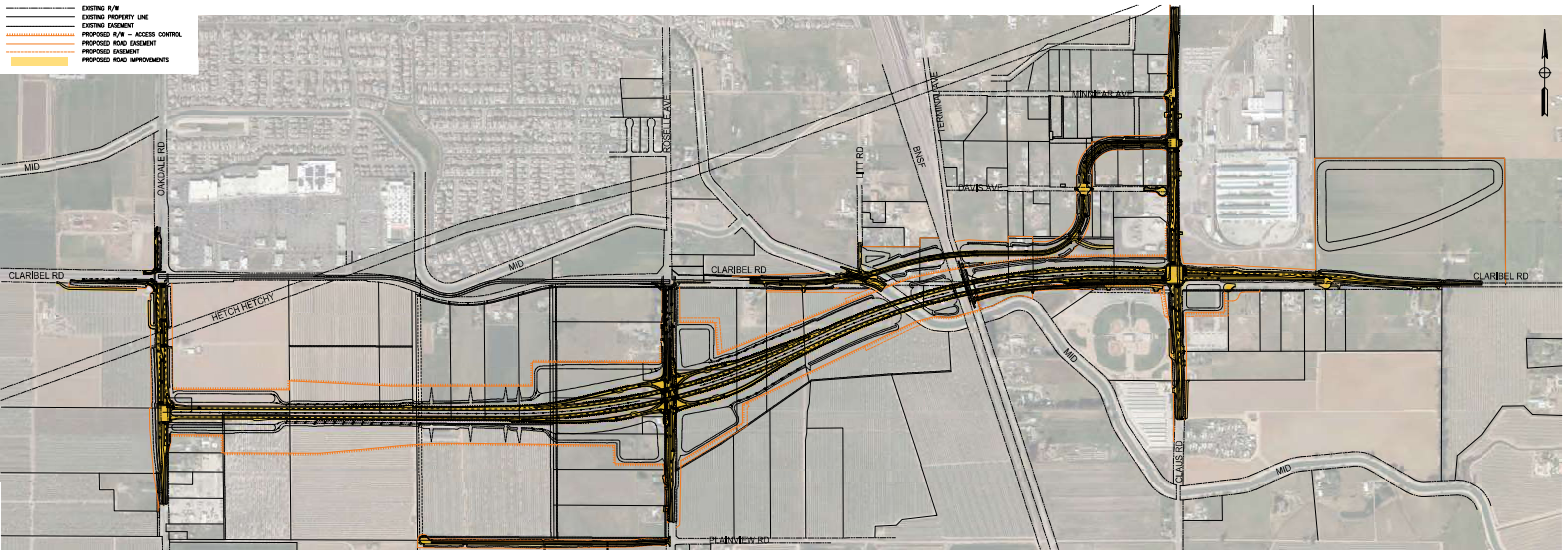
PARCEL C AS SHOWN ON A PARCEL MAP FILED APRIL 9, 1976 IN **BOOK 22, PAGE 83 OF PARCEL MAPS** IN THE OFFICE OF THE COUNTY RECORDER OF STANISLAUS COUNTY, BEING A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN.

Assessor Parcel Map



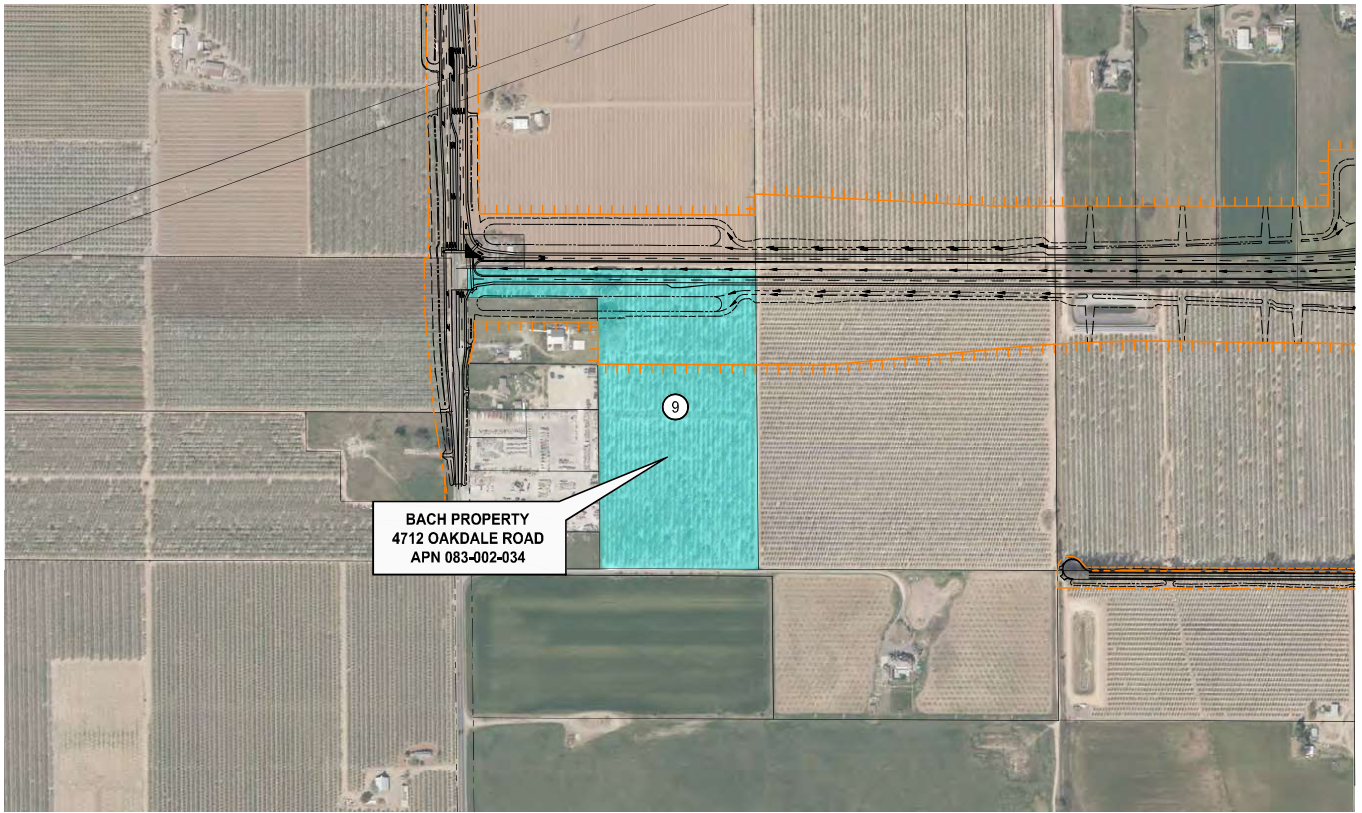
LEGEND:

- EXISTING R/W
- EXISTING PROPERTY LINE
- EXISTING EASEMENT
- PROPOSED R/W - ACCESS CONTROL
- PROPOSED ROAD EASEMENT
- PROPOSED DRAINAGE
- PROPOSED ROAD IMPROVEMENTS



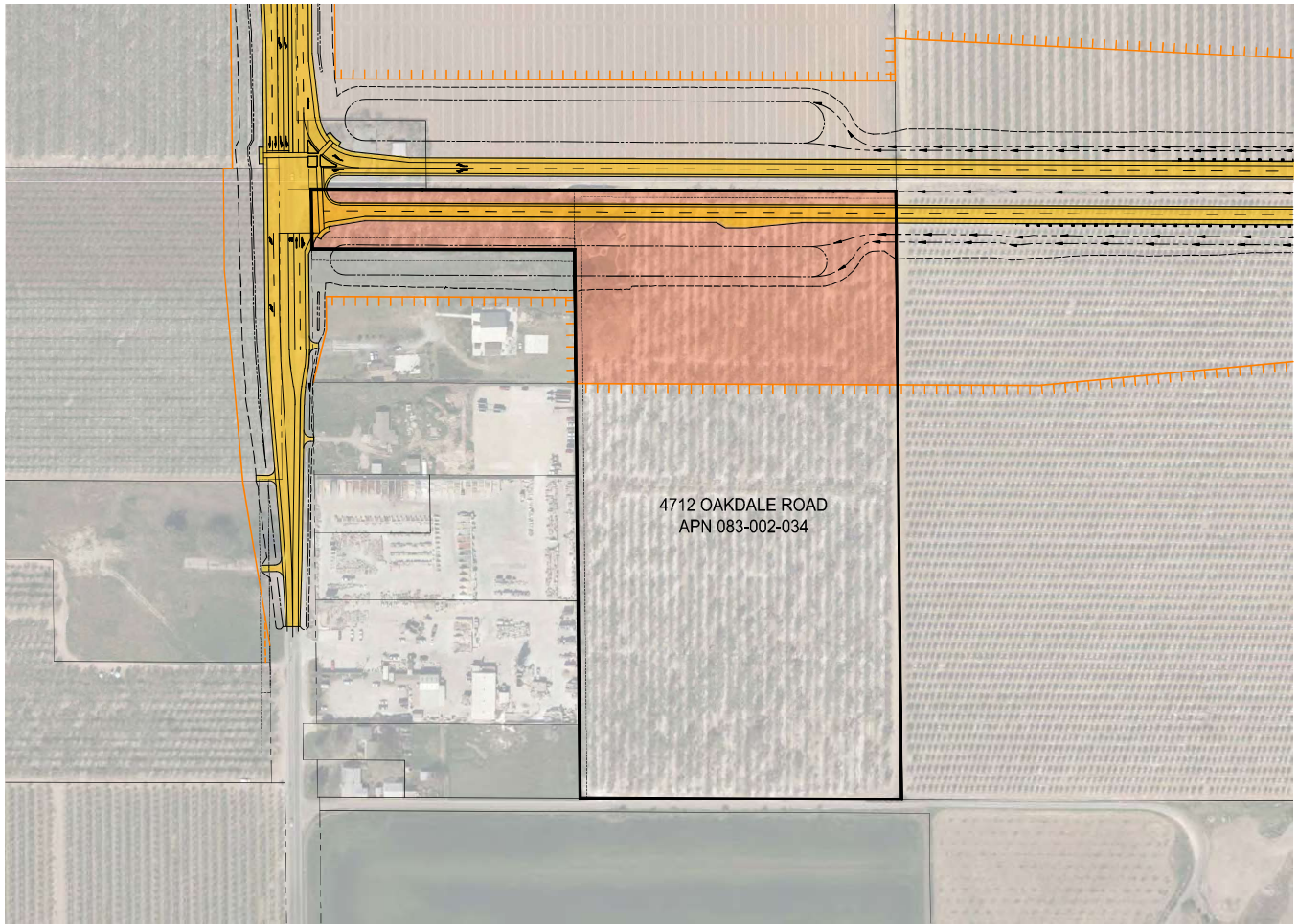
NORTH COUNTY CORRIDOR (NCC) PHASE I
OVERALL EXHIBIT
OCTOBER 2012





BACH PROPERTY
4712 OAKDALE ROAD
APN 083-002-034

9



4712 OAKDALE ROAD
APN 083-002-034



November 15, 2022

Wolfgang E. and Victoria E. Bach, Trustees
The Bach Family Trust, U/A DTD April 21, 2000
4712 Oakdale Road
Modesto, CA 95357

c/o Gerald E. Brunn
Law Offices of Brunn & Flynn
928 12th Street, Suite 200
Modesto, CA 95354

Subject: Initiation of Legal Process

**Acquisition of real property located at 4712 Oakdale Road, Modesto, CA 95357
APN: 083-002-034**

Dear Mr. Brunn:

As you are aware The Stanislaus County Department of Public Works (County), in cooperation with the California Department of Transportation (Caltrans), has been working to design, fund and begin construction of the North County Corridor Phase 1 Project ("Project"). The Project will construct a new expressway in and near the Cities of Modesto and Riverbank from Oakdale Road to Claus Road, a new interchange at Roselle Avenue, and a realignment of Claribel Road. The full acquisition of your real property located at 4712 Oakdale Road, Modesto, CA 95357 (Property) will be needed for a public purpose, to facilitate construction of the Project

The County has contracted with the right of way firm of Overland, Pacific & Cutler, (OPC) to facilitate obtaining the right of way necessary for construction of the Project. By letter dated July 6, 2022, OPC presented the County's formal offer to acquire the fee interest in your property at fair market value, based on the County's approved appraisal, a copy of the appraisal was provided to you with the offer letter. To date, OPC has been unable to obtain the necessary documents to secure the acquisition voluntarily. Therefore, and to construct the project, we must begin the legal process of securing the acquisition of the Property by eminent domain.

County staff intends to recommend to the County Board of Supervisor's the adoption of a Resolution of Necessity (RON) to acquire the Property by eminent domain at a public

hearing. A formal notice of the hearing and intent to adopt the RON will be provided to you at least 15 days prior to the hearing date. If the County adopts the RON, the County would then proceed to file an eminent domain action with the Stanislaus County Superior Court.

It is still the County's wish to negotiate a voluntary acquisition of the Property. If you are interested, OPC is available to meet with you prior to the RON hearing. In addition, even if the County ultimately decides to adopt a RON, OPC staff will continue to be available to discuss a negotiated acquisition even as the eminent domain process proceeds. Please feel free to contact Steven Harris with OPC by phone at (916) 857-1520 or by email at sharris@opcservices.com if you need additional information or have any questions.

Sincerely,



Jamie Lupo
Program Manager
OPC, LLC

Enclosure: Offer Letter dated July 6, 2022

Cc: Theron Roschen, Stanislaus County
Artin N. Shaverdian, Esq.
Nossaman, LLP



PROOF OF SERVICE BY MAIL

I declare that I am a resident of or employed in the County of Riverside, State of California. I am over the age of 18 years. The name and address of my residence or business is 2280 Market Street, Suite 200, Riverside, CA 92501.

On the 3rd day of November 21, 2022, I served Impasse Letter to the parties listed below by placing a true copy thereof enclosed in a sealed envelope collection and delivery by the United States Postal Service or private delivery service following ordinary business practices with postage or other costs prepaid; addressed as follows:

Parcel ID	Name	Address	Certified Receipt No.
09	The Bach Family Trust c/o Gerald E. Brunn Law Offices of Brunn & Flynn Wolfgang E. and Victoria E. Bach, Trustees	928 12 th Street, Suite 200, Modesto, CA 95354	7022-0410-0001-9433-0680
09	The Bach Family Trust, U/A DTD April 21, 2000 4712 Oakdale Road, Modesto, CA 95357	4712 Oakdale Road, Modesto, CA 95357	7022-0410-0001-9433-0215

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on November 21, 2022, at Riverside, CA.

Maria Martinez

(print name)

(signature)



July 6, 2022

Wolfgang E. and Victoria E. Bach, Trustees
The Bach Family Trust, U/A DTD April 21, 2000
4712 Oakdale Road
Modesto, CA 95357

c/o Gerald E. Brunn
Law Offices of Brunn & Flynn
928 12th Street, Suite 200
Modesto, CA 95354

RE: **County of Stanislaus - State Route 108/North County Corridor Phase I Project
Full Fee Acquisition for APN: 083-002-034**

Dear Mr. and Mrs. Bach:

The County of Stanislaus (County) has finalized plans for the proposed State Route 108/North County Corridor Phase I Project (NCCP). The purpose of the project is to ultimately build a west east roadway that would improve regional network circulation, relieve existing traffic congestion, reduce traffic delay, accommodate future traffic, and benefit commerce and enhance safety. As previously discussed with you, this project will require the acquisition of your entire property necessary to construct the proposed project improvements. The County seeks to acquire the fee simple interest in a total of approximately 22.91 acres of your parcel known as APN: 083-002-034 and as shown in the attached Exhibit A.

Accordingly, the County hereby makes an offer to acquire your entire property located at 4712 Oakdale Road, Modesto, CA, 95357 for the sum of **\$1,700,000.00**, which is segregated as follows:

<u>\$1,100,000.00</u>	Land & Improvements (Fee Simple)
<u>\$ 600,000.00</u>	Excess Land (no legal access in the after condition)
<u>\$1,700,000.00</u>	Total (rounded)

The County's offer is the full amount determined to be just compensation for the property interest. The basis for that determination is explained in the attached Information and Appraisal Summary Statements. It is the County's hope that this price is agreeable to you and that the acquisition can begin immediately.

As the County's acquisition agent, I will be your main point of contact and will work directly with you throughout the acquisition process. If you have any questions regarding this letter and accompanying statements, please feel free to contact me at (916) 768-1875 or by email: sharris@opcservices.com.

If this offer is acceptable, please contact me to coordinate execution of the Agreement and open escrow services.

This offer is subject to and conditioned upon acceptable soils conditions and the absence from the property of toxic or hazardous substances and any other kind of soil or water contamination, and to the grant of a right-of-entry to the County for the purpose of conducting a soil, toxic and hazardous substances investigation of the Property at the County's expense. This offer is subject to modification depending on the results of that investigation.

Finally, any agreement that you make with the County's staff or consultants for the County's purchase of the Property will not be binding on the County, unless and until it is approved by the County's Board of Supervisors.

To assist you in considering this offer, we have enclosed the following documents for your review:

- 1) Written Offer Letter
- 2) Appraisal Summary Statement
- 3) Appraisal Report
- 4) Purchase and Sale Agreement
- 5) Grant Deed
- 6) Stanislaus County Acquisition Informational Brochure
- 7) Caltrans Title VI Information
- 8) Certificate of Occupancy Form
- 9) Tax Relief Information Exhibit- 8-ex-49-a11y
- 10) Federal Relocation Informational Brochure
- 11) Appraisal Cost Reimbursement Notification
- 12) Summary Statement Relating to the Purchase of Real Property or an Interest Therein.

Your cooperation and immediate attention to this matter will be greatly appreciated.

Sincerely,



Steven Harris
Project Manager

cc: Dave Leamon, Director of Public Works
Stanislaus County

OFFER RECEIVED

By _____

Date _____

Receipt of Offer Does Not
Constitute Acceptance

INFORMATION STATEMENT

This offer is presented in settlement of the acquisition of a fee simple interest in your entire property located at 4712 Oakdale Road, Modesto, CA, 95357.

<u>\$1,100,000.00</u>	Land & Improvements (Fee Simple)
<u>\$ 600,000.00</u>	Excess Land (no legal access in the after condition)
<u>\$1,700,000.00</u>	Total (rounded)

The value for your property being purchased is based upon a market value appraisal prepared by an independent appraisal firm in accordance with accepted appraisal procedures. Valuation of your property is based upon an analysis of, where applicable, recent sales of comparable sites and similar properties in this locality with consideration to the highest and best use for development of the property; an income approach based on the potential fair rental for your property has been considered where applicable; and a replacement cost approach considering the estimated depreciated cost of the improvements, together with the value of the land, has been considered where applicable.

Before arriving at a conclusion of value, the appraiser conducted an investigation in order to obtain the information necessary. The investigation generally includes an inspection of the property and improvements, and review of the improvements, a review of the immediate surrounding and regional influences, the property zoning and uses permitted, a study of the highest and best use to which the property can be put, easements which may exist on the property, the availability of utilities, access and street improvements. The appraiser conducted interviews with knowledgeable persons, collect comparable data, information relating to fair rental value of the property and the cost of reproducing the improvements on the property.

The offer is the full amount believed by the County of Stanislaus to be just compensation for your property. It is not less than the County's approved appraisal of the Fair Market Value of the property. Any decreases or increases in the Fair Market Value of the real property to be acquired prior to the date of the valuation caused by the public improvements or project for which the property is to be acquired, or by the likelihood that the property would be acquired for such improvement or project, other than that due to physical deterioration within the reasonable control of the owner, has been disregarded by the County and its appraiser in making their determination of the Fair Market Value of such property.

FAIR MARKET VALUE, as used in the appraisal, is (a) "... the fair market value of the property taken is the highest price on the date of valuation that would be agreed by a seller, being willing to sell but under no particular or urgent necessity for doing so, nor obligated to sell, and a buyer, being ready, willing and able to buy but under no particular necessity for so doing, each dealing with the full knowledge of all the uses and purposes for which the property is reasonably adaptable and available. (b) The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable." (Section 1263.320 Code of Civil Procedure)

The determination of just compensation does not reflect any consideration of or allowance for relocation assistance and payments to which you may be entitled to receive under applicable State or Federal Law or of the County's agreement to pay certain settlement costs.

This summary of the basis of the amount offered as just compensation is presented in compliance

with State, and where applicable, Federal Law. Attached is an Appraisal Summary Statement including information pertinent to our offer to acquire the entire property.

In the event you are the owner of a business conducted on the property being acquired by the County, you may be entitled to compensation for loss of goodwill, if any, if you are able to make a showing of such loss pursuant to the requirements of California Code of Civil Procedure Section 1263.510. For your information, Section 1263.510 is reprinted below in its entirety.

- (A) The owner of a business conducted on the property taken, or on the remainder if such property is part of a larger parcel, shall be compensated for loss of goodwill if the owner proves all of the following:
 - (1) The loss is caused by the taking of the property or the injury to the remainder.
 - (2) The loss cannot reasonably be prevented by relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill.
 - (3) Compensation for the loss will not be included in payments under Section 7262 of the Government Code.
 - (4) Compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner.
- (B) Within the meaning of this article, "goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

Pursuant to Civil Code of Procedure section 1263.025 should you elect to obtain an independent appraisal, the County will pay for the actual reasonable costs up to \$5,000 subject to the following conditions;

- (A) You, not the County, must order the appraisal. Should you enter into a contract with the selected appraiser, the County will not be a party to the contract.
- (B) The selected appraiser must be licensed with the Office of Real Estate Appraisers (OREA).
- (C) Appraisal cost reimbursement requests must be made in writing, and submitted to the County of Stanislaus, 1716 Morgan Road, Modesto, California 95358 within 90 days of the earliest of the following dates: (1) the date the selected appraiser requests payment from you for the appraisal; or, (2) the date upon which you, or someone on your behalf, remitted full payment to the selected appraiser for the appraisal, copies of the contract (if a contract was made), appraisal report, and invoice for completed work by the appraiser must be provided to the County concurrent with submission of the appraisal cost reimbursement request. The costs must be reasonable and justifiable.

EXHIBIT "A"
RIGHT-OF-WAY

North County Corridor Phase 1 Construction Project
The Bach Family Trust to County of Stanislaus
APN: 083-002-034

Legal description

A portion of Parcel "C" as shown on that certain map filed for record April 9, 1976 in Book 22 of Parcel Maps, at Page 83, Stanislaus County Records, and situate in the northwest quarter of Section 2, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, northerly and easterly of courses (1) through (3) of the following described line:

COMMENCING at a 3/4" iron pipe with plastic plug & tack in top at the West quarter corner of said Section 2, as shown on that certain map filed for record June 15, 2017 in Book 35 of Surveys, at Page 43, Stanislaus County Records, from which a 3/4" iron pipe, no tag at the Center quarter corner of said Section 2, as shown on that certain map filed for record August 12, 1983 in Book 16 of Surveys, at Page 16, Stanislaus County Records, bears South 89°44'48" East 2638.77 feet; thence along the West line of said northwest quarter North 00°34'48" West 1087.84 feet to the **TRUE POINT OF BEGINNING**;

thence (1), leaving said West line and proceeding South 89°46'28" East 621.09 feet to a point on the West boundary of said Parcel "C";

thence (2), parallel with said West line of the northwest quarter and along said West boundary of Parcel "C" South 00°34'48" East 187.04 feet to the southeast corner of Parcel "A" of said Parcel Map;

thence (3), leaving said West boundary and proceeding South 89°45'14" East 1006.70 feet;

thence (4), North 84°37'08" East 657.74 feet;

thence (5), easterly 877.51 feet along the arc of a non-tangent curve concave to the South having a radius of 6890.50 feet, to which beginning a radial line bears North 06°30'46" West, through a central angle of 07°17'48";

thence (6), South 89°12'58" East 1542.53 feet;

thence (7), South 00°44'08" East 193.67 feet;

thence (8), South 89°34'19" East 579.00 feet to a point on the East line of said Section 2, and the terminal point of this description, said terminal point bears North 00°16'51" West 803.62 feet, measured along said East line, from a 3/4" iron pipe, tagged LS 5797, shown as a 3/4" iron pipe with plastic plug

stamped LS 7616 on that certain map filed for record February 3, 2012 in Book 33 of Surveys, at Page 2, Stanislaus County Records, at the East quarter corner of said Section 2.

TOGETHER WITH underlying fee interest, if any, contiguous to the above-described property in and to the adjoining public way.

This conveyance is made for the purpose of a freeway and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights of access, appurtenant to GRANTOR's remaining property, in and to the freeway.

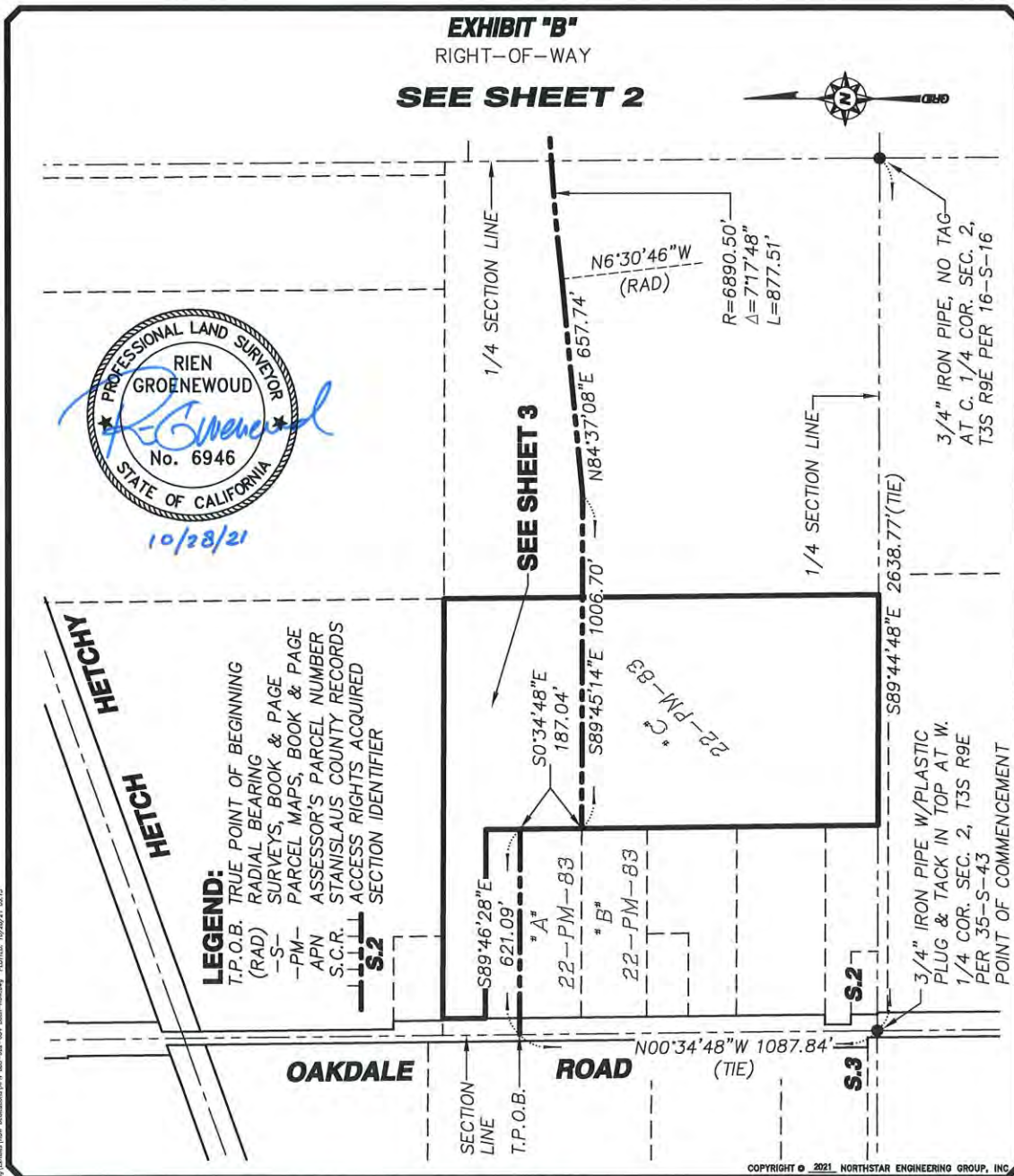
The Basis of Bearings for this description is the California State Plane Coordinate System 83 (2010.00), Zone 3, adjusted to NGS monuments "F 1388" (PID HS4417), "U 1414" (PID HS4500) and GPS Station Number 601, as shown on that certain map filed for record April 25, 2013 in Book 33 of Surveys, Page 54, Stanislaus County Records. All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined scale factor of 0.999927913.

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

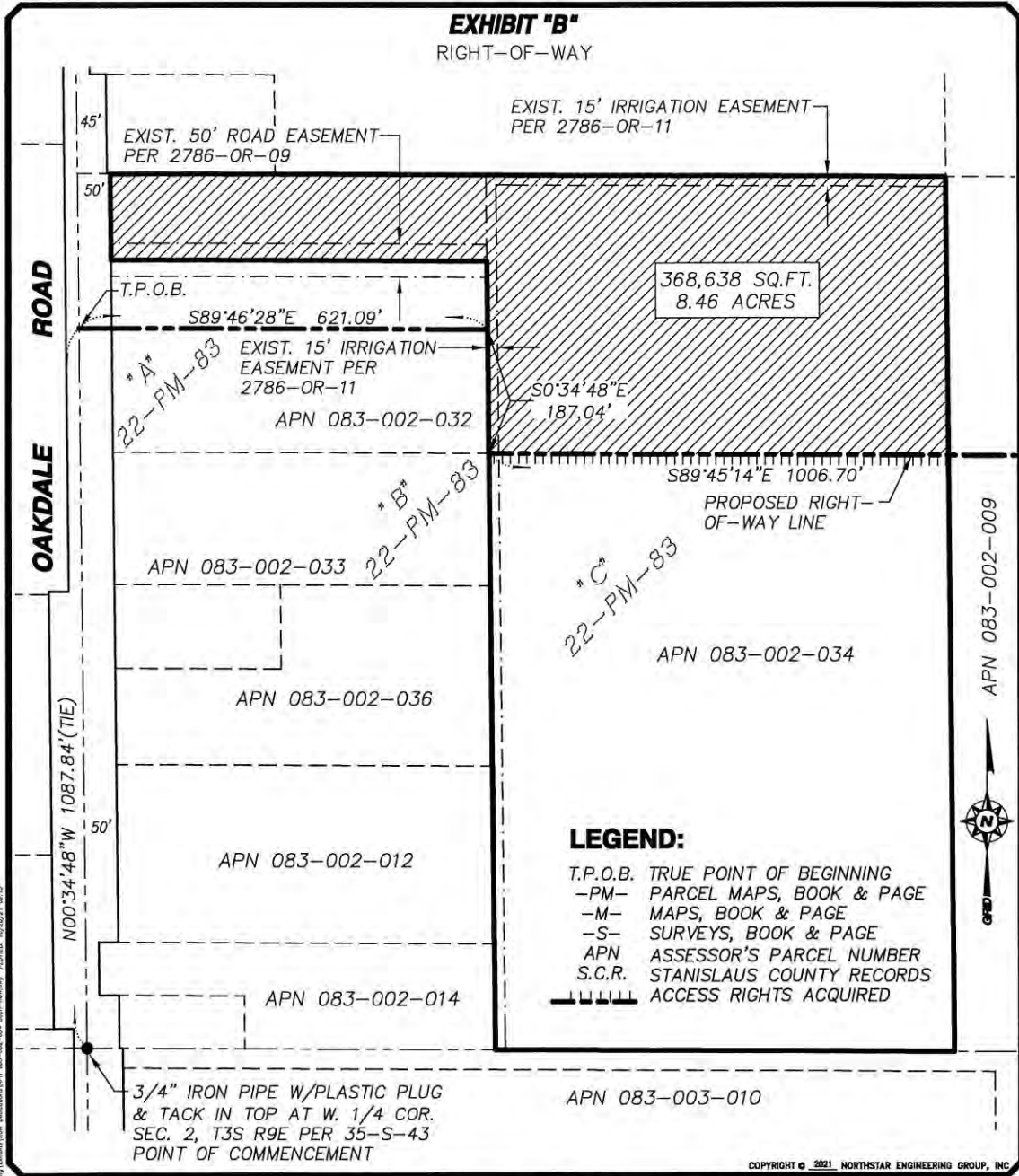

Rien Groenewoud, P.L.S. 6946



10/28/21



 NorthStar Engineering Group, Inc. • CIVIL ENGINEERING • SURVEYING • PLANNING • 620 12th Street Modesto, CA 95354 (209) 524-3525 Phone (209) 524-3526 Fax	PLAT TO ACCOMPANY LEGAL DESCRIPTION	JOB: J20-2539 DATE: 10/18/21 SCALE: 1"=400' DRAWN: RG DESIGN: RG CHK'D: RG SHEET:
	BEING A PORTION OF PARCEL "C", AS SHOWN IN BOOK 22 OF PARCEL MAPS, PAGE 83, S.C.R., AND SITUATE IN THE NORTHWEST 1/4 OF SECTION 2, T.3 S., R.9 E., M.D.M.	
STANISLAUS COUNTY	CALIFORNIA	
		01 OF 03



DATE: 10/18/21 10:25:33 DocId: 3537 DocId: 3537 DocId: 3537 Project: [Redacted] Modesto, CA 95354 10/18/21 09:13

 NorthStar Engineering Group, Inc. • CIVIL ENGINEERING • SURVEYING • PLANNING • 620 12th Street Modesto, CA 95354 (209) 524-3525 Phone (209) 524-3526 Fax	PLAT TO ACCOMPANY LEGAL DESCRIPTION	JOB: J20-2539 DATE: 10/18/21 SCALE: 1"=200' DRAWN: RG DESIGN: RG CHK'D: RG SHEET:
	BEING A PORTION OF PARCEL "C", AS SHOWN IN BOOK 22 OF PARCEL MAPS, PAGE 83, S.C.R., AND SITUATE IN THE NORTHWEST 1/4 OF SECTION 2, T.3 S., R.9 E., M.D.M.	STANISLAUS COUNTY CALIFORNIA

EXHIBIT “A”
PUBLIC UTILITY EASEMENT

North County Corridor Phase 1 Construction Project
The Bach Family Trust to County of Stanislaus
APN: 083-002-034

Legal description

A portion of Parcel “C” as shown on that certain map filed for record April 9, 1976 in Book 22 of Parcel Maps, at Page 83, Stanislaus County Records, and situate in the northwest quarter of Section 2, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, being a strip of land 40.00 feet wide, the northerly line of which is coincident with course (3) of the following described line:

COMMENCING at a 3/4” iron pipe with plastic plug & tack in top at the West quarter corner of said Section 2, as shown on that certain map filed for record June 15, 2017 in Book 35 of Surveys, at Page 43, Stanislaus County Records, from which a 3/4” iron pipe, no tag at the Center quarter corner of said Section 2, as shown on that certain map filed for record August 12, 1983 in Book 16 of Surveys, at Page 16, Stanislaus County Records, bears South 89°44’48” East 2638.77 feet; thence along the West line of said northwest quarter North 00°34’48” West 1087.84 feet to the **TRUE POINT OF BEGINNING**;

thence (1), leaving said West line and proceeding South 89°46’28” East 621.09 feet to a point on the West boundary of said Parcel “C”;

thence (2), parallel with said West line of the northwest quarter and along said West boundary of Parcel “C” South 00°34’48” East 187.04 feet to the southeast corner of Parcel “A” of said Parcel Map;

thence (3), leaving said West boundary and proceeding South 89°45’14” East 1006.70 feet;

thence (4), North 84°37’08” East 657.74 feet;

thence (5), easterly 877.51 feet along the arc of a non-tangent curve concave to the South having a radius of 6890.50 feet, to which beginning a radial line bears North 06°30’46” West, through a central angle of 07°17’48”;

thence (6), South 89°12’58” East 1542.53 feet;

thence (7), South 00°44’08” East 193.67 feet;

thence (8), South 89°34’19” East 579.00 feet to a point on the East line of said Section 2, and the terminal point of this description, said terminal point bears North 00°16’51” West 803.62 feet, measured

along said East line, from a 3/4" iron pipe, tagged LS 5797, shown as a 3/4" iron pipe with plastic plug stamped LS 7616 on that certain map filed for record February 3, 2012 in Book 33 of Surveys, at Page 2, Stanislaus County Records, at the East quarter corner of said Section 2.
The sidelines of said strip to be lengthened or shortened to terminate at said West boundary and the East boundary of said Parcel "C".

Containing (27,976 square feet Grid) 27,980 square feet [0.64 acres] Ground, more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System 83 (2010.00), Zone 3, adjusted to NGS monuments "F 1388" (PID HS4417), "U 1414" (PID HS4500) and GPS Station Number 601, as shown on that certain map filed for record April 25, 2013 in Book 33 of Surveys, Page 54, Stanislaus County Records. All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined scale factor of 0.999927913. To convert to ground areas, divide grid areas by the combined factor squared (0.99985583).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.



Rien Groenewoud, P.L.S. 6946



11/8/21

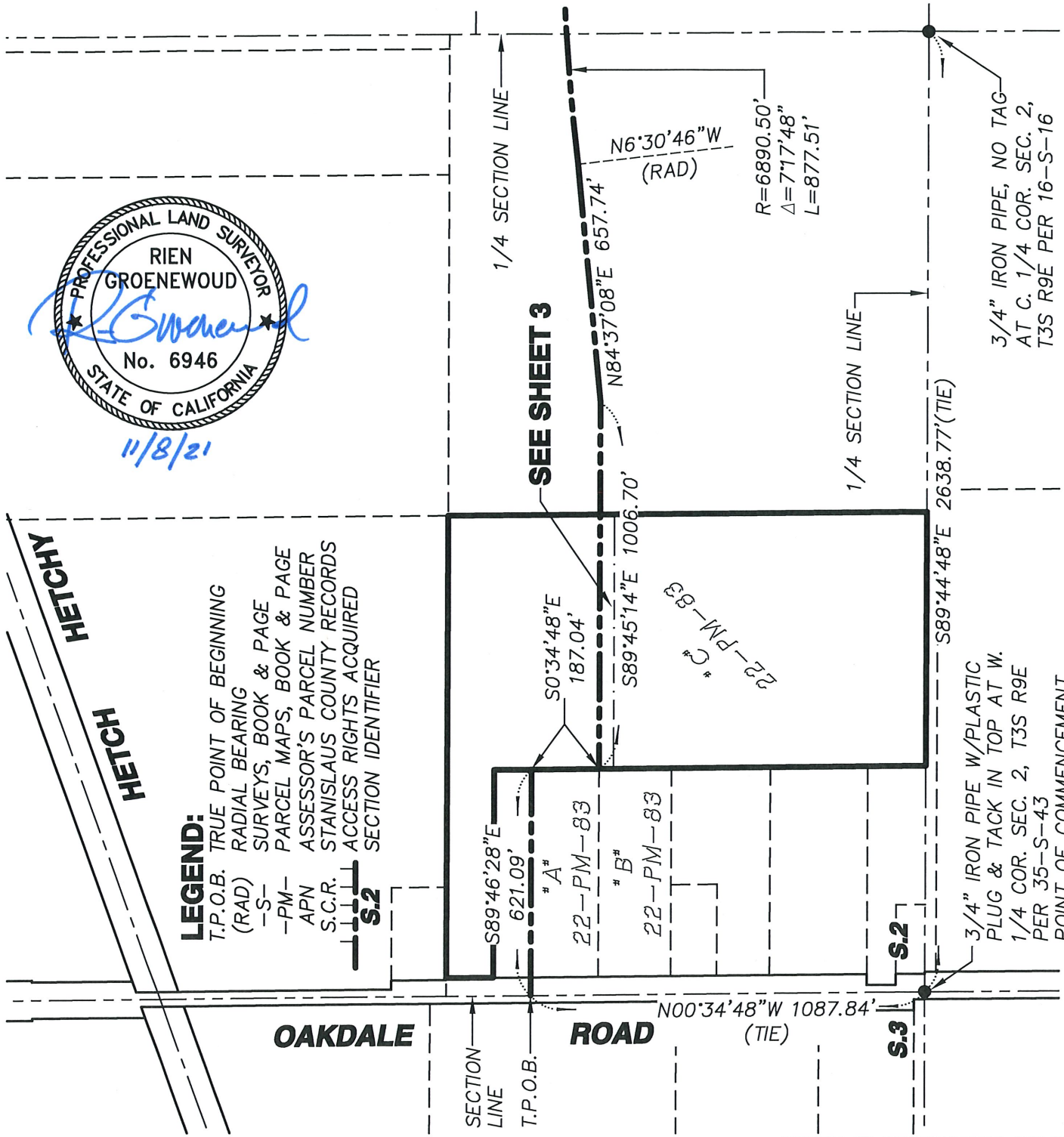
EXHIBIT "B"

PUBLIC UTILITY EASEMENT

SEE SHEET 2



11/8/21



LEGEND:

- T.P.O.B. TRUE POINT OF BEGINNING
- (RAD) RADIAL BEARING
- S- SURVEYS, BOOK & PAGE
- PM- PARCEL MAPS, BOOK & PAGE
- APN ASSESSOR'S PARCEL NUMBER
- S.C.R. STANISLAUS COUNTY RECORDS
- ACCESS RIGHTS ACQUIRED
- S.2** SECTION IDENTIFIER

SEE SHEET 3

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NorthStar
Engineering Group, Inc.
• CIVIL ENGINEERING • SURVEYING • PLANNING •
620 12th Street Modesto, CA 95354
(209) 524-3525 Phone (209) 524-3526 Fax

**PLAT TO ACCOMPANY
LEGAL DESCRIPTION**

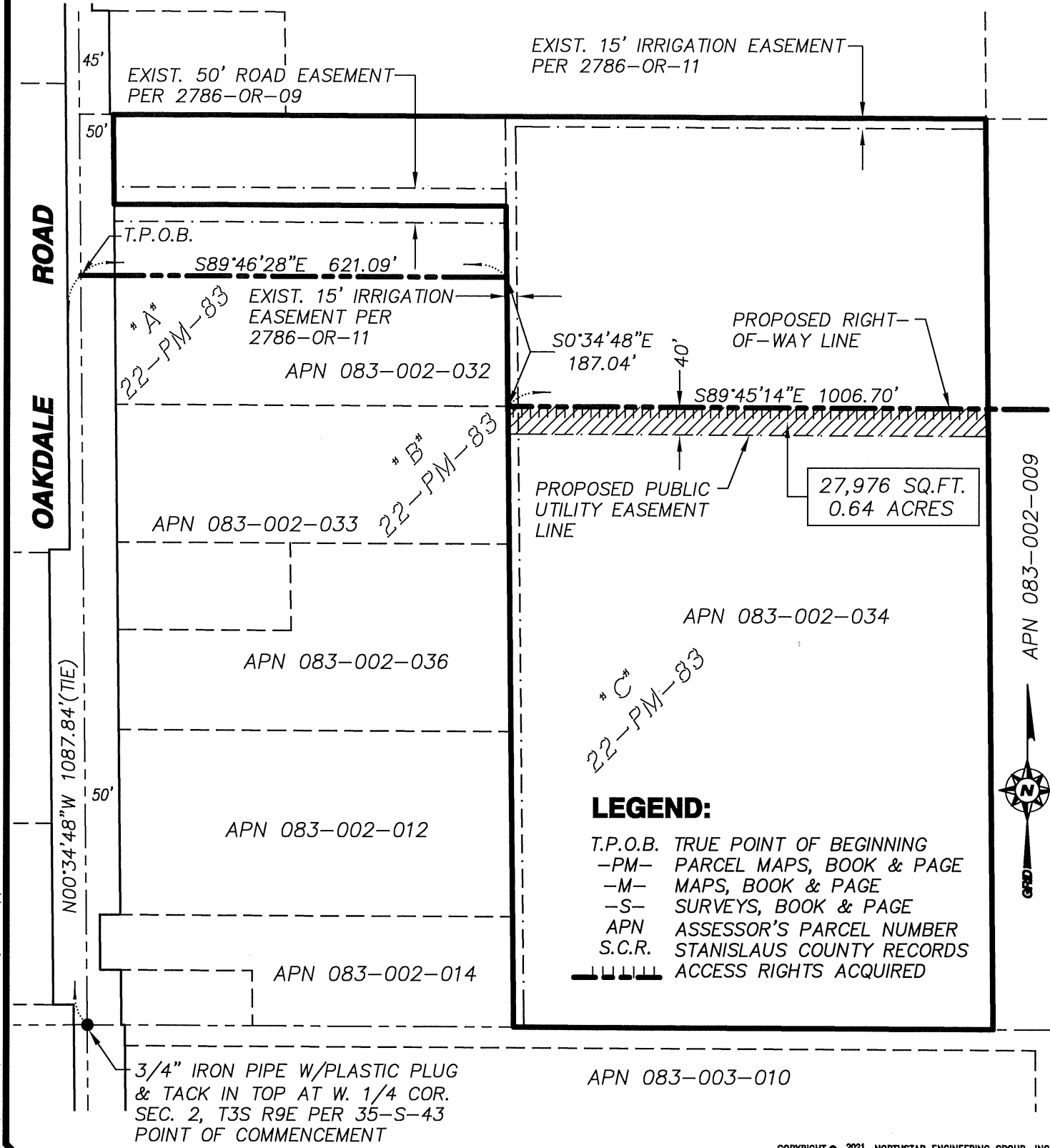
BEING A PORTION OF PARCEL "C", AS SHOWN IN BOOK 22 OF PARCEL MAPS, PAGE 83, S.C.R., AND SITUATE IN THE NORTHWEST 1/4 OF SECTION 2, T.3 S., R.9 E., M.D.M.

STANISLAUS COUNTY CALIFORNIA

JOB:	J20-2539
DATE:	11/03/21
SCALE:	1"=400'
DRAWN:	RG
DESIGN:	RG
CHK'D:	RG
SHEET	01 OF 03

EXHIBIT "B"

PUBLIC UTILITY EASEMENT



LEGEND:

T.P.O.B. TRUE POINT OF BEGINNING
 -PM- PARCEL MAPS, BOOK & PAGE
 -M- MAPS, BOOK & PAGE
 -S- SURVEYS, BOOK & PAGE
 APN ASSESSOR'S PARCEL NUMBER
 S.C.R. STANISLAUS COUNTY RECORDS
 ACCESS RIGHTS ACQUIRED



COPYRIGHT © 2021, NORTHSTAR ENGINEERING GROUP, INC

DWC NAME: K:\J20-2539 Chamber Road Extension Project\DWG\Mapings\Exhibit A\PLU Dedication\MPV_083-002-034_Bach-PLU.dwg PLOTTED: 11/2/21 1:53Z

NorthStar
Engineering Group, Inc.
 • CIVIL ENGINEERING • SURVEYING • PLANNING •
 620 12th Street Modesto, CA 95354
 (209) 524-3525 Phone (209) 524-3526 Fax

**PLAT TO ACCOMPANY
 LEGAL DESCRIPTION**

BEING A PORTION OF PARCEL "C", AS SHOWN IN BOOK 22 OF PARCEL MAPS, PAGE 83, S.C.R., AND SITUATE IN THE NORTHWEST 1/4 OF SECTION 2, T.3 S., R.9 E., M.D.M.

STANISLAUS COUNTY CALIFORNIA

JOB:	J20-2539
DATE:	10/18/21
SCALE:	1"=200'
DRAWN:	RG
DESIGN:	RG
CHK'D:	RG
SHEET	03 OF 03

RESOLUTION OF NECESSITY REQUIREMENTS

For each property interest to be acquired, a resolution of necessity must be adopted prior to the commencement of eminent domain proceedings pursuant to Code of Civil Procedure Section 1245.220. The statutory requirement that a public entity adopt a Resolution of Necessity before initiating a condemnation action "is designed to ensure that public entities will verify and confirm the validity of their intended use of the power of eminent domain prior to the application of that power in any one particular instance" (*San Bernardino County Flood Control Dist. v. Grabowski* (1988) 205 Cal.App.3d 885, 897).

A Resolution of Necessity must contain a general statement of the public use for which the property is to be taken, a reference to the statutes authorizing the exercise of eminent domain, a description of the property, and a declaration stating that each of the following have been found and determined by the Board to be the case (Code of Civil Procedure § 1245.230):

1. The public interest and necessity require the project;
2. The project is planned or located in the manner that will be most compatible with the greatest public good and least private harm;
3. The property sought to be acquired is necessary for the project; and
4. That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

Issues relating to the amount or adequacy of compensation are not pertinent to the findings that the Board must make in adopting Resolutions of Necessity.

In addition, before adopting a Resolution of Necessity, each person whose property is to be acquired by eminent domain must be given notice and a reasonable opportunity to appear and be heard on the matters referred to above. (Code of Civil Procedure § 1245.230.) The owner was sent a written Notice of the Hearing on January 6, 2023. See Attachment 5.

This report provides data and information addressing each of the foregoing items. This report is provided to assist the Board in determining whether the requirements of Section 1245.230 have been met, and whether the other findings specified above, as applicable, can be made. If the Board determines that all requirements have been met, and that all findings can be made, it is recommended that the Board adopt a Resolution of Necessity for acquisition of the Subject Property.

ADOPTION OF THE RESOLUTION OF NECESSITY AND FINDINGS:

By adopting the proposed Resolution of Necessity, the Board will authorize the filing of an eminent domain action to acquire in fee the property located at 4712 Oakdale Road, in the City of Modesto, County of Stanislaus, California (CPN 9) (APN 083-002-034) for the State Route 108/North County Corridor Phase I Project. Before adopting the Resolution of Necessity, the Board must make the following findings based on evidence presented at the hearing:

1. *The Public Interest and Necessity Require the Project*

Information and evidence establishing that the public interest and necessity require the Project is contained in the planning and environmental documents for the Project, including but not limited to, the North County Corridor New State Route 108 Project Draft and Final Environmental Impact Report/Environmental Impact Statement (FEIR/EIS), and Final Section 4(f) De Minimis Findings, and all Appendices thereto (March 2020), all of which were discussed above and are incorporated herein by this reference.

The Project is proposed to reduce existing and future traffic congestion in northern Stanislaus County, support the efficient movement of goods and services and improve interregional travel as follows:

- Reduce average daily traffic volumes and current traffic congestion and accommodate anticipated future traffic on the existing SR-108 and the surrounding regional transportation network in Stanislaus County and the Cities of Modesto, Riverbank, and Oakdale.
- Support the efficient movement of goods and services throughout the region for the benefit of the regional economy by providing a more direct and dependable truck route, increasing the average operating speeds of all vehicles, and reducing the number of areas of conflict between motorized traffic and non-motorized means of travel.
- Improve the efficiency of interregional travel by reducing travel times for long distance commuters, recreational traffic, and interregional goods movement.

The Project has been identified as a necessary improvement to accommodate regional east-west traffic and to improve north-south connectivity in Stanislaus County and southern San Joaquin County. The Project is also needed because travel conditions in the region, including traffic congestion on existing SR-108, will continue to worsen due to regional population growth and projected traffic volume increases; traffic congestion on existing truck routes (SR-108/SR-120) will continue to hinder the efficient movement of goods and services; existing SR-108 is part of the interregional system, and interregional circulation will become increasingly constrained as travel times on existing SR-108 increase substantially with planned residential and employment growth.

2. *The Proposed Project Is Planned and Located in The Manner That Will Be Most Compatible with The Greatest Public Good and The Least Private Injury*

The Project has been designed to maximize the benefits to the public at large while minimizing impacts to private property owners. The project team has worked diligently to minimize the need for property acquisitions.

The proposed project will connect SR-219 near Modesto to SR-120 near Oakdale. The environmental documents analyzed four build alternatives and the no build alternative. The western end of all alternatives is at the SR-219 (Kiernan Avenue)/Tully Road intersection. The project was analyzed as three distinct segments for environmental evaluation purposes.

To minimize private injury, a thorough analysis regarding the need for each property interest was conducted in the Project's planning stages, which included public outreach meetings and other efforts to determine if modifications to the alignment were necessary to minimize impacts. These efforts continued over the course of years to ensure the alignment design achieved the greatest public good with the least private injury as set forth below.

After review of public comments, the Project Development Team (Caltrans, StanCOG, Stanislaus County, Cities of Modesto, Riverdale and Oakdale) met on February 5, 2018 to discuss the proposed project alternatives. During the meeting, the four build alternatives in the environmental document (Alternatives 1A, 1B, 2A, and 2B) were discussed relative to any issues raised by the public during the public review period and the local agencies' input on the locally preferred alternative. Based on public review and local agency input, it was determined that Alternative 1B was the preferred alternative because it provides the best balance between avoiding and/or minimizing environmental impacts, project feasibility, right-of-way acquisition, overall cost, and ability to meet the project's purpose and need. Specifically, the decision to select Alternative 1B as the preferred alternative was based upon the following.

- 1) Alternative 1B meets the purpose and need of the project.

- 2) Alternative 1B has fewer adverse impacts to homes and businesses in the area.
- 3) Alternative 1B maximizes traffic operations compared to Alternatives 2A or 2B.
- 4) Alternative 1B is closest to the urbanized areas and planned growth areas in the region.
- 5) Alternative 1B was preferred by the public as expressed during public meetings public comments.
- 6) The local jurisdictions (City of Modesto, City of Oakdale, City of Riverbank, and Stanislaus County) unanimously support the selection of Alternative 1B as the locally preferred alternative. Each of these local jurisdictions approved a resolution in support of Alternative 1B.

Therefore, Alternative 1B is the alternative which is planned and located in the manner that is most compatible with providing the greatest public good and least private injury.

3. The Property Described in The Resolution Is Necessary for The Proposed Project

All property interests sought were analyzed, giving full consideration to whether a feasible design alternative exists that would alleviate the need for the interests. After extensive analysis of design and alignment alternatives, the current Project alignment was selected as the preferred alternative, which requires acquisition of a portion of the Subject Property.

Accordingly, staff determined that a portion of the Subject Property is necessary for the construction of the Project and related improvements as a portion of the Subject Property is located directly in the center of the proposed new State Route 108 North County Corridor. The remainder is being acquired as a remnant per to CCP section 1240.410, resulting full

4. The Offer Required by Section 7267.2 of the Government Code Has Been Made to the Owner or Owners of Record

The County engaged independent licensed appraisers to appraise the Subject Property, pursuant to County and Caltrans policy and applicable laws, and determine just compensation based on the Subject Property's "Fair Market Value." A written offer at the full appraised amount of \$1,700,000 was made to the Property owner on or about July 6, 2022. Full copies of the appraisal reports and other information required by Section 7267.2 of the California Government Code were also provided to the owner. In accordance with State law, the owner was also offered up to \$5,000 as reimbursement for the cost to have its own appraisal prepared.

5. The Project is a More Necessary Public Use Than Any Existing Public Use

Under California Code of Civil Procedure section 1240.510 and 1240.610, to the extent any portion of the Project site is currently utilized for public use, the County may only acquire that interest to the extent the Project is a more necessary public use, or in the alternative, the Project is a compatible public use which will not unreasonably interfere with or impair

the continuance of the existing public use. Some or all of the Subject Property may be devoted to other public uses or easements and rights-of-way appropriated to existing public uses. As set forth previously, the Project is a critical link in the state transportation network and the lack of route continuity contributes to traffic congestion and reduced levels of service on adjoining highways and local streets. Therefore, to the extent the Subject Property or any portion thereof is already devoted to a public use that will interfere with the Project, staff recommends that the Board find that the Project is a more necessary public use than any existing public uses, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the Subject Property is already devoted.



DEPARTMENT OF PUBLIC WORKS

*David A. Leamon, PE, MPA
Public Works Director*

*Chris Brady, PE
Deputy Director - Design/Survey/Fleet Maintenance*

*Frederic Clark, PE, LS
Deputy Director - Development/Traffic*

*Collin Yerzy, PE, QSD/P
Deputy Director – Construction Administration/Operations*

*Tracie Madison
Senior Business and Finance Manager*

www.stancounty.com/publicworks

January 6, 2023

**NOTICE OF HEARING TO CONSIDER ADOPTION OF RESOLUTION OF
NECESSITY TO ACQUIRE CERTAIN REAL PROPERTY OR INTEREST IN
REAL PROPERTY BY EMINENT DOMAIN
(California Code of Civil Procedure section 1245.235)**

The Bach Family Trust
c/o Gerald E. Brunn Law Offices of Brunn & Flynn
928 12th Street, Suite 200
Modesto, CA 95354

**Re: State Route 108/North County Corridor Phase I Project
Owner: The Bach Family Trust
Assessor Parcel No.: 083-002-034**

Dear Mr. Brunn,

PLEASE TAKE NOTICE that, on **February 7, 2023, at 9:00 a.m.**, the County of Stanislaus ("County") Board of Supervisors will hold a meeting in the County Board Chambers (Basement) located at 1010 10th Street, Modesto, CA 95354, at which time County will consider adopting a resolution of necessity for taking by eminent domain the following property or interest(s) in real property for a public use, namely the State Route 108/North County Corridor Phase I Project ("Project"):

Subject Property: Fee Interest in Real property located on the east side of Oakdale Road, south of Claribel Road, 4712 Oakdale Road Modesto, California, and more particularly described in Exhibit attached to this notice.
Assessor Parcel No.: 083-002-034

PLEASE TAKE FURTHER NOTICE that it is the intent of the County to adopt a resolution of necessity for the taking of said property by County.

Each person whose property is to be acquired by eminent domain and whose name and address appear on the last equalized County assessment roll with respect to such property is entitled to appear and be heard at said meeting of County with respect to the matters referred to in Code of Civil Procedure Section 1240.030. Should you wish to appear and be heard on these matters, you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice. Accordingly, you have the right to appear and be heard on the following matters:



MAIN OFFICE: 1716 MORGAN ROAD, MODESTO, CA 95358
PHONE: 209.525.4130
DEVELOPMENT SERVICES: 1010 10TH STREET, SUITE 4204, MODESTO, CA 95354
STANCOUNTY.COM



- (a) Whether the public interest and necessity require the project;
- (b) Whether the project is planned or located in the manner that will be most compatible with the greatest public good and least private injury; and
- (c) Whether the property sought to be acquired by eminent domain and described in the Resolution of Necessity is necessary for the project.

The County will also consider whether the offer required by Government Code section 7267.2 has been made to the owner of record.

PLEASE TAKE FURTHER NOTICE THAT pursuant to California Code of Civil Procedure section 1245.235(b)(3), your failure to file a written request with County to appear and be heard within 15-days from the date that this Notice is mailed may result in the waiver of your right to appear and be heard on the above-stated matters and issues that are the subject of the hearing. If you wish to appear and be heard by County with respect to said proposed resolution of necessity, you should file with County as soon as possible a written request to appear and be heard. All requests to appear must be sent for filing to: Stanislaus County Board of Supervisors, Attention: Clerk of the Board, 1010 10th Street, Suite 6700, Modesto, CA 95354.

For your convenience, if you are unable to personally appear or choose to submit written objections in place of a personal appearance, the Board of Supervisors will consider any written objections so long as they are filed within the 15-day period set forth above. All written objections filed with the County within the 15-day period will become part of the official record of the meeting at which the Board of Supervisors considers the Resolution.

Please note that questions regarding the amount of compensation to be paid or the value of the property to be acquired are *not* part of this proceeding and the Board of Supervisors will *not* consider such in determining whether a Resolution of Necessity should be adopted. All issues related to the compensation to be awarded for the acquisition of your property will be resolved in the eminent domain court proceeding. If you elect not to appear and be heard, you will still have the right to claim greater compensation in the court proceeding.

In accordance with Section 1263.615 of the California Code of Civil Procedure, the use of the property for the Project is scheduled to commence within two years of acquisition (or upon acquisition of property necessary for the Project, whichever is sooner), thus the County is not offering a leaseback agreement.

DATE OF HEARING: Tuesday, February 7, 2023 at 9:00 a.m.

PLACE OF HEARING: County Board Chambers
County of Stanislaus
1010 10th Street, (Basement)
Modesto, CA 95354

Notice of Hearing
APN: 083-002-034
Page 3

If you have any questions, please contact Theron Roschen at (916) 842-1069 or roschent@stancounty.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theron Roschen', with a stylized flourish at the end.

Theron Roschen, PE
Project Manager

Enclosure(s): Exhibit A - Legal Definition, Descriptions & Plat Map

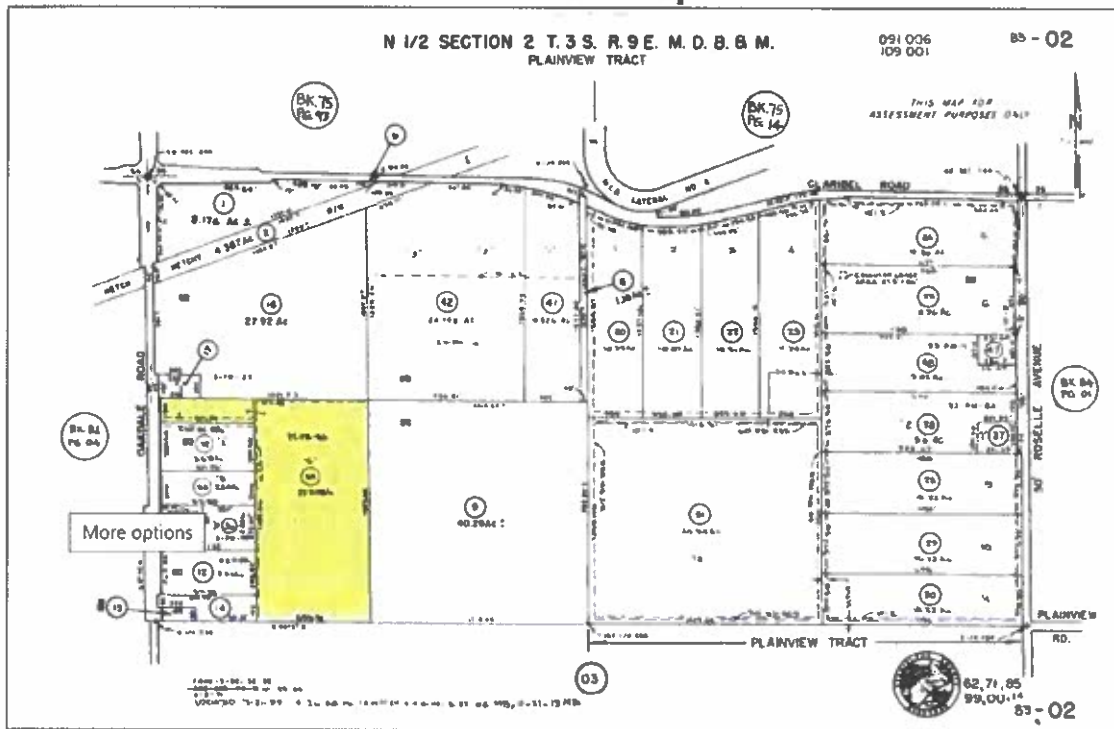
EXHIBIT "A"
Legal Description

For **APN/Parcel ID(s): 083-002-034-000**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF STANISLAUS, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL C AS SHOWN ON A PARCEL MAP FILED APRIL 9, 1976 IN **BOOK 22, PAGE 83 OF PARCEL MAPS** IN THE OFFICE OF THE COUNTY RECORDER OF STANISLAUS COUNTY, BEING A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN.

Assessor Parcel Map





DEPARTMENT OF PUBLIC WORKS

*David A. Leamon, PE, MPA
Public Works Director*

*Chris Brady, PE
Deputy Director - Design/Survey/Fleet Maintenance*

*Frederic Clark, PE, LS
Deputy Director - Development/Traffic*

*Collin Yerzy, PE, QSD/P
Deputy Director - Construction Administration/Operations*

*Tracie Madison
Senior Business and Finance Manager*

www.stancounty.com/publicworks

**STANISLAUS COUNTY, DEPARTMENT OF PUBLIC WORKS
DECLARATION OF MAILING**

I declare that I am employed in the County of Stanislaus, State of California, I am over the age of eighteen years and not a party to the within entitled cause, and my business address is: Stanislaus County Department of Public Works, 1716 Morgan Road, Modesto, California 95358.

On January 6, 2023, I served the following document(s) in the manner(s) indicated below:

**NOTICE OF HEARING TO CONSIDER ADOPTION OF RESOLUTION OF NECESSITY TO
ACQUIRE CERTAIN REAL PROPERTY OR INTEREST IN REAL PROPERTY BY EMINENT
DOMAIN**

(CERTIFIED U.S. MAIL): I caused true and correct copies of the above document(s), by following ordinary business practices, to be placed and sealed in an envelope at the Stanislaus County Department of Public Works, 1716 Morgan Road, Modesto, CA, 95358, for collection and mailing in the United States Postal Service. The envelope was addressed to the below-named addressee. I am familiar with the Stanislaus County Department of Public Works' office practice for collection and processing of correspondence for mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

The Bach Family Trust
c/o Gerald E. Brunn Law Offices of Brunn & Flynn
928 12th Street, Suite 200 Modesto, CA 95354

(FEDERAL EXPRESS) by placing a true and correct copy thereof enclosed in a sealed envelope, for overnight delivery, delivered to Federal Express for overnight courier service, at the address(es) set forth above.

(PERSONAL DELIVERY) by personal delivery to the party or to their attorney, if known, at the address(es) set forth above.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on January 6, 2023.

A handwritten signature in blue ink, appearing to read "Jakin", written over a horizontal line.
Jennifer Akin



North County Corridor (NCC) Resolutions of Necessity

February 7, 2023

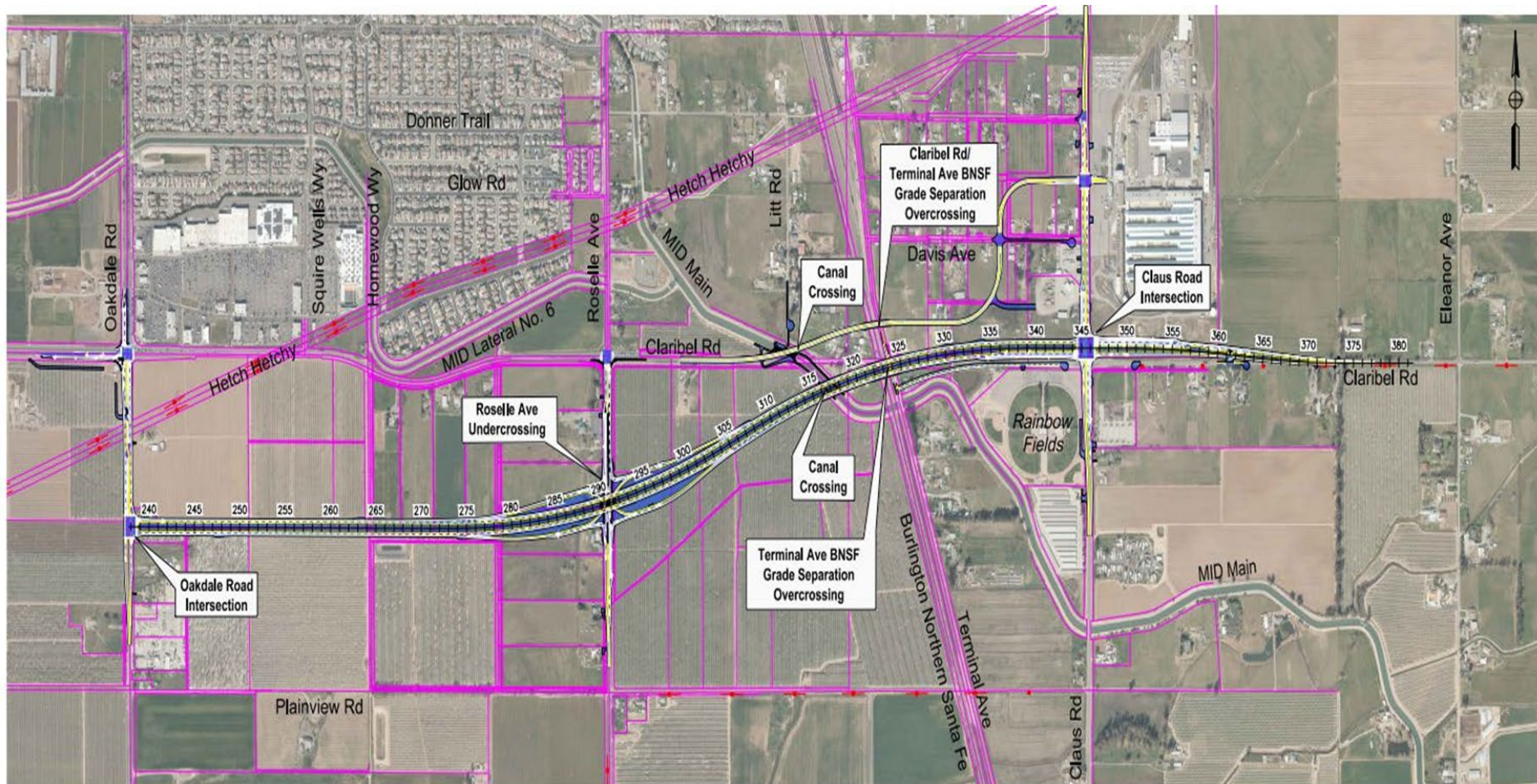
Resolutions of Necessity to Acquire Real Property

- APN 083-002-034 – Wolfgang E. and Victoria E. Bach, Trustees, The Bach Family Trust
- APN 075-023-023 – Shirley A. Wincentzen and Christopher D. Wincentzen
- APN 083-002-031, 083-002-041, and 083-002-042 – Gregory and Karen Ellis Revocable Trust, Big Sky Investments 3, LLC.

Agenda

- Project Description
- Overview of Process
- Discussion of Individual Properties
 - 083-002-034 – Bach
 - 075-023-023 - Wincentzen
 - 083-002-031, 083-002-041, and 083-002-042 – Ellis and Big Sky

North County Corridor Phase I Project Limits

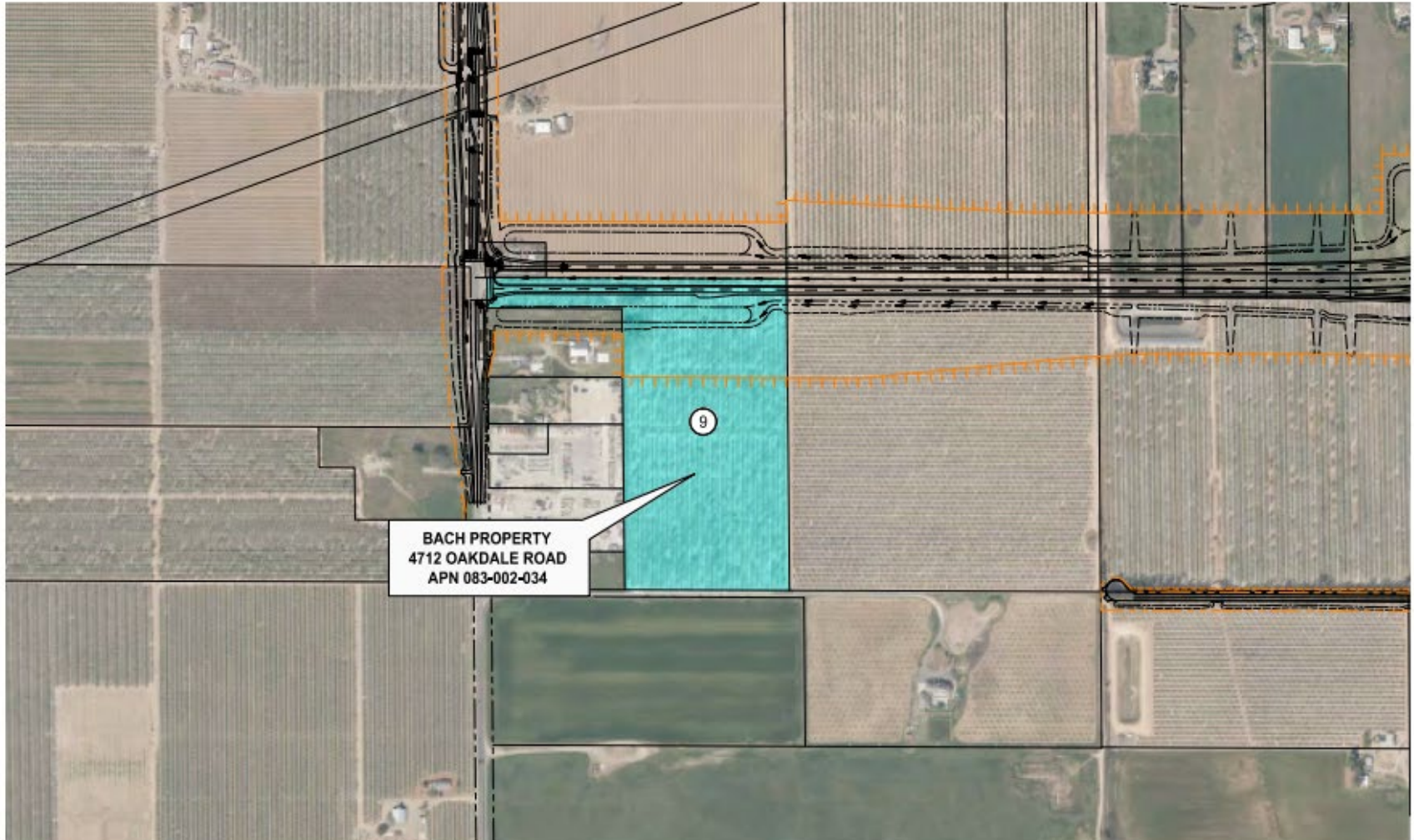


PLAN VIEW

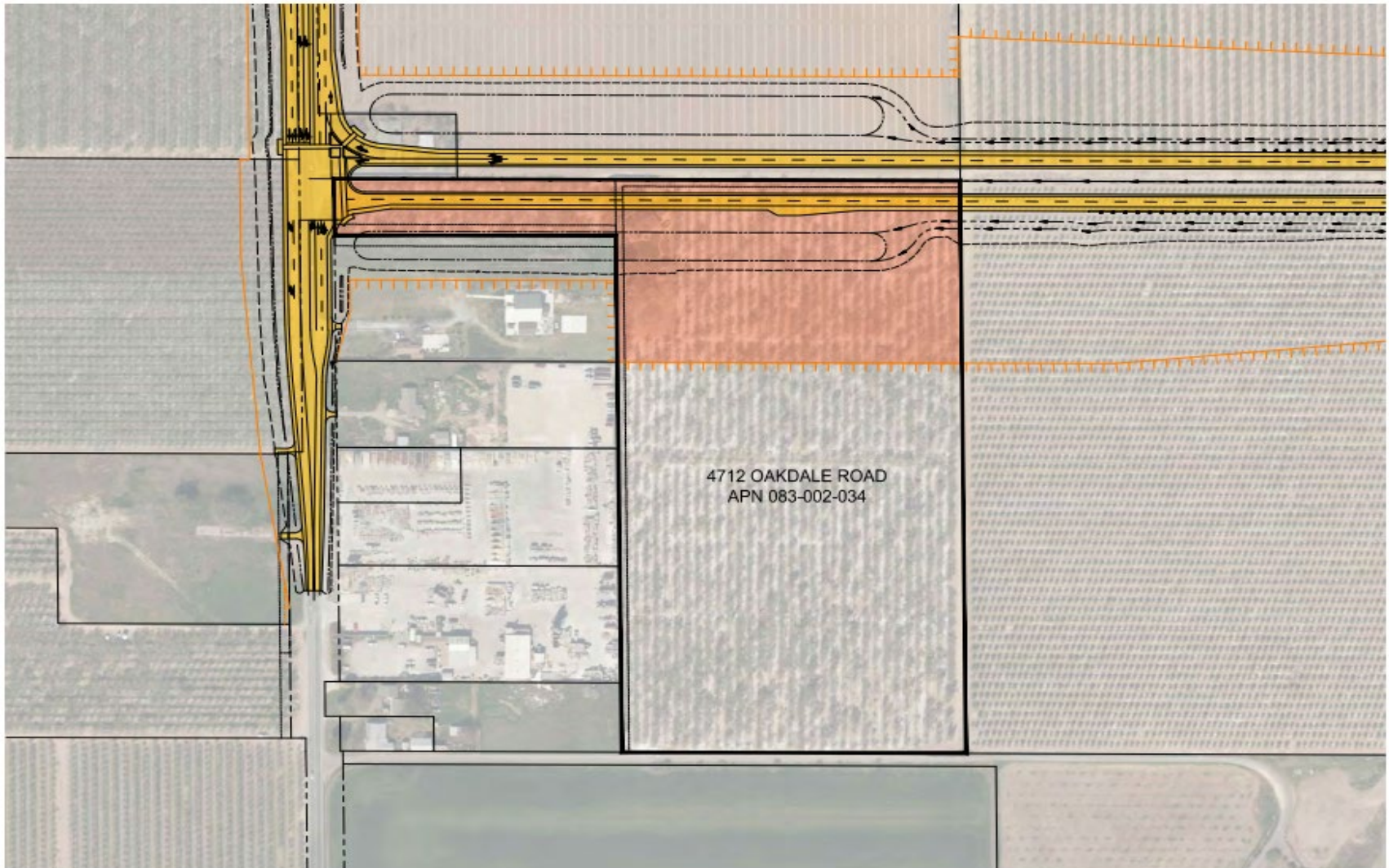
Bach Family Trust

Agenda Item # 7.2

Project Limits Bach



Project Limits Bach



Project Approvals, to Date

APN 083-002-034

Bach

- Caltrans approved the CEQA/NEPA Environmental Documents and Route Adoption on May 22, 2020
- These actions confirmed the alignment (1-B) and created and approved the North County Corridor Project

Public Interest and Necessity

APN 083-002-034

Bach

- The NCC Project will improve the regional network circulation
- Relieve existing traffic congestion, reduce traffic delay and accommodate future traffic on State Route 108
- Support efficient movement of goods and services
- Enhance traffic safety

Greatest Public Good & Least Private Injury

Through rigorous environmental study and public outreach:

- Project has been designed to maximize the benefits to the public at large while minimizing impacts to private property owners.
- A thorough analysis regarding the need for each property interest was conducted in the Project's planning stages.
- Project team has worked diligently to minimize the need for property acquisitions.
- Alternative 1-B is the alternative which is planned and located in the manner that is most compatible with providing the greatest public good and least private injury.

Key RON Findings Required

APN 083-002-034

Bach

- Public interest and necessity require the North County Corridor Project – Phase 1 – Final EIR / EIS Approved May 22, 2020
- Project is planned in the manner that will be most compatible with the greatest public good and the least private injury
- The subject properties are necessary for the Project
- Offer has been made to the parcel owner(s) to be acquired

Staff Recommends

APN 083-002-034

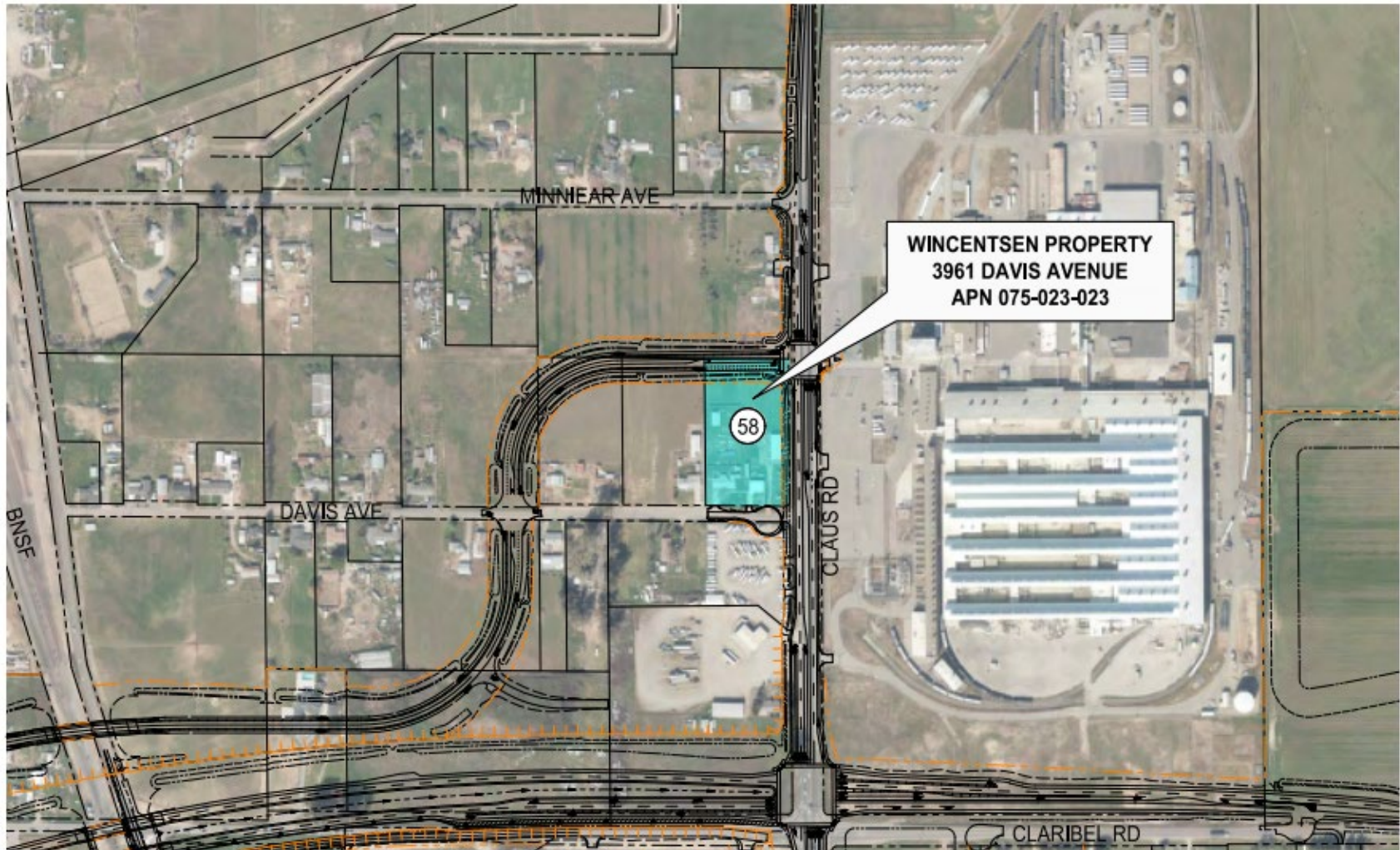
Bach

1. Find that the public interest and necessity require the North County Corridor Project.
2. Find that the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. Find that the subject property APN 083-002-034 (Bach), described in the Resolutions attached to the Staff Report are necessary for the Project.
4. Find that the offer required by section 7267.2 of the Government Code has been made to the parcel owners of the properties to be acquired.
5. Adopt a Resolution of Necessity in the form attached to the Staff Report as Attachment 1.
6. Authorize County Counsel to initiate eminent domain proceedings to acquire the subject property.

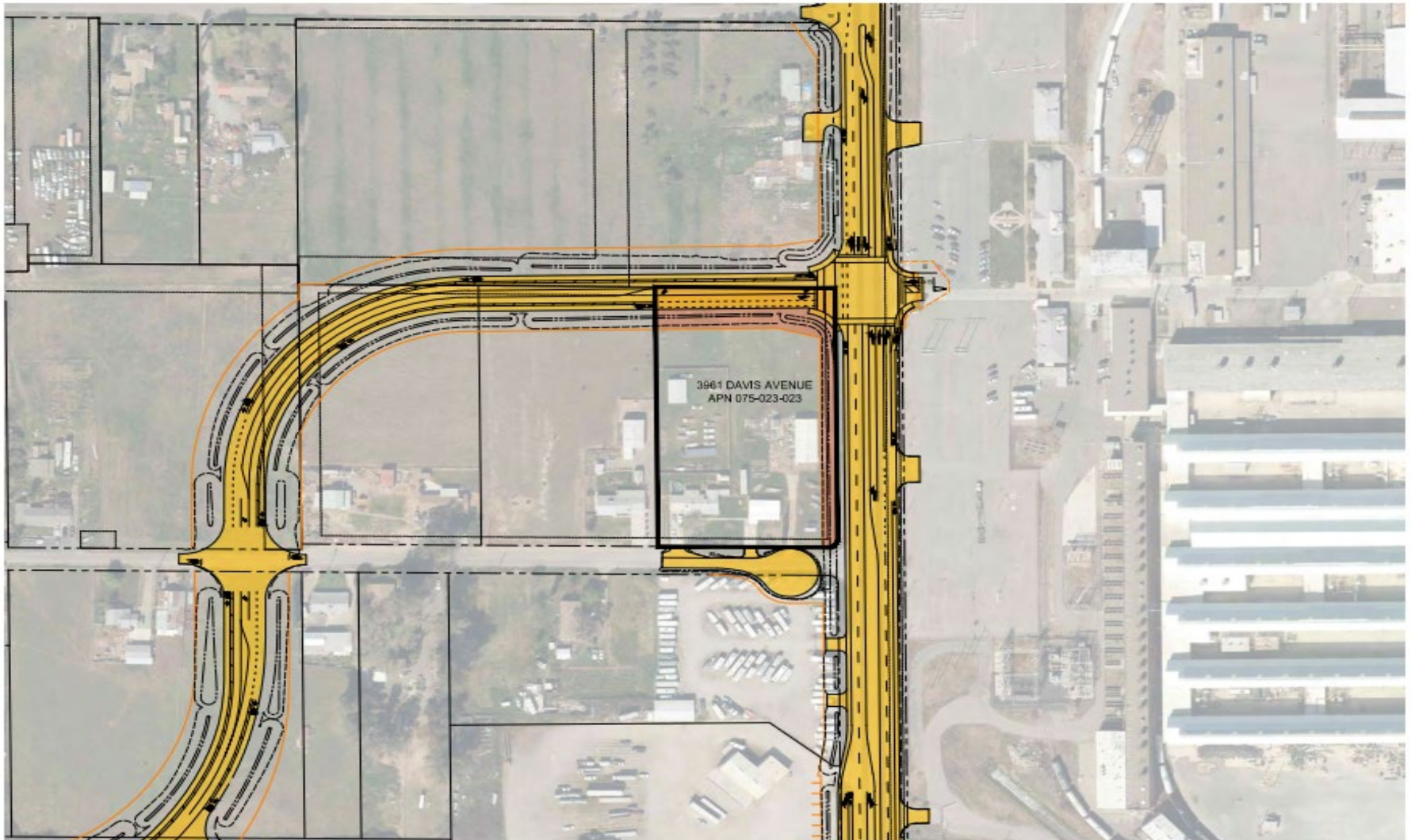
Wincentsen

Agenda Item # 7.3

Project Limits Wincentzen



Project Limits Wincentesen



Project Approvals, to Date

APN 075-023-023

Wincentzen

- Caltrans approved the CEQA/NEPA Environmental Documents and Route Adoption on May 22, 2020
- These actions confirmed the alignment (1-B) and created and approved the North County Corridor Project

Public Interest and Necessity

APN 075-023-023

Wincentzen

- The NCC Project will improve the regional network circulation
- Relieve existing traffic congestion, reduce traffic delay and accommodate future traffic on State Route 108
- Support efficient movement of goods and services
- Enhance traffic safety

Greatest public Good & Least Private Injury

APN 075-023-023

Wincentsen

Through rigorous environmental study and public outreach:

- Project has been designed to maximize the benefits to the public at large while minimizing impacts to private property owners.
- A thorough analysis regarding the need for each property interest was conducted in the Project's planning stages.
- Project team has worked diligently to minimized the need for property acquisitions.
- Alternative 1-B is the alternative which is planned and located in the manner that is most compatible with providing the greatest public good and least private injury.

Key RON Findings Required

APN 075-023-023

Wincentzen

- Public interest and necessity require the North County Corridor Project – Phase 1 – Final EIR / EIS Approved May 22, 2020
- Project is planned in the manner that will be most compatible with the greatest public good and the least private injury
- The subject properties are necessary for the Project
- Offer has been made to the parcel owner(s) to be acquired

Staff Recommends APN 075-023-023 Wincentzen

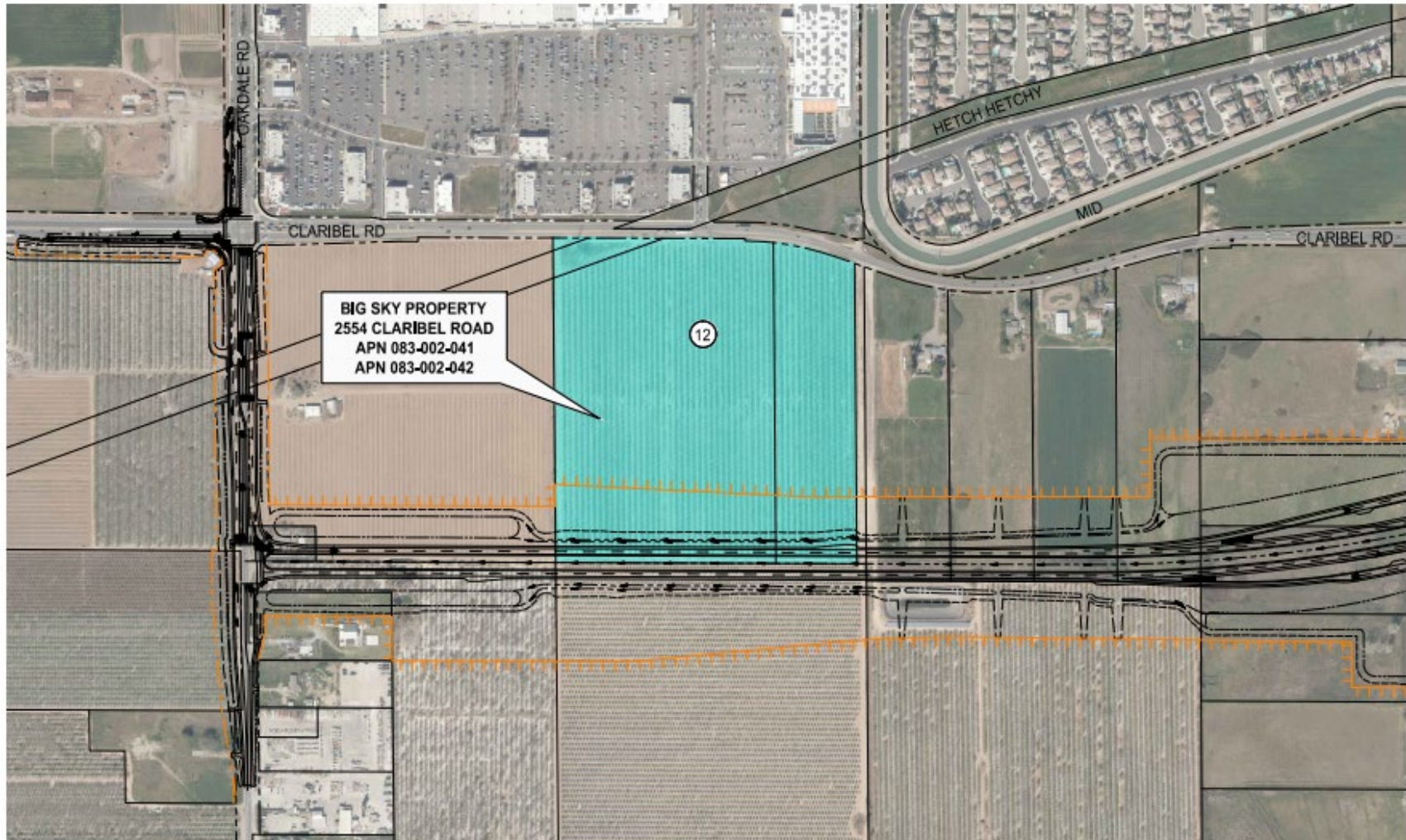
1. Find that the public interest and necessity require the North County Corridor Project.
2. Find that the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. Find that the subject property APN 075-023-023 (Wincentzen), described in the Resolutions attached to the Staff Report are necessary for the Project.
4. Find that the offer required by section 7267.2 of the Government Code has been made to the parcel owners of the properties to be acquired.
5. Adopt a Resolution of Necessity in the form attached to the Staff Report as Attachment 1.
6. Authorize County Counsel to initiate eminent domain proceedings to acquire the subject property.

Ellis Trust/Big Sky LLC

Agenda Item # 7.4

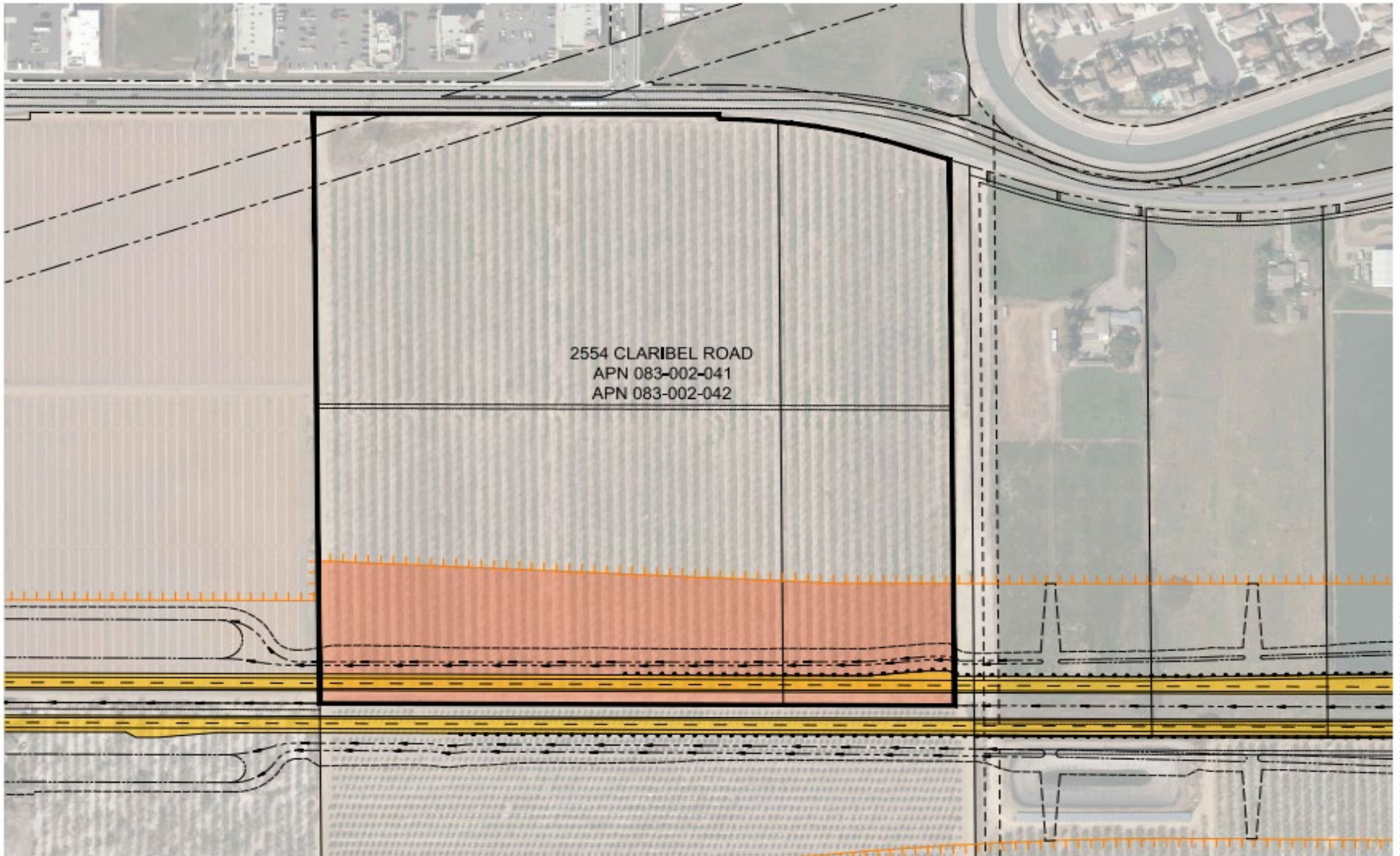
Project Limits

Ellis Trust / Big Sky LLC



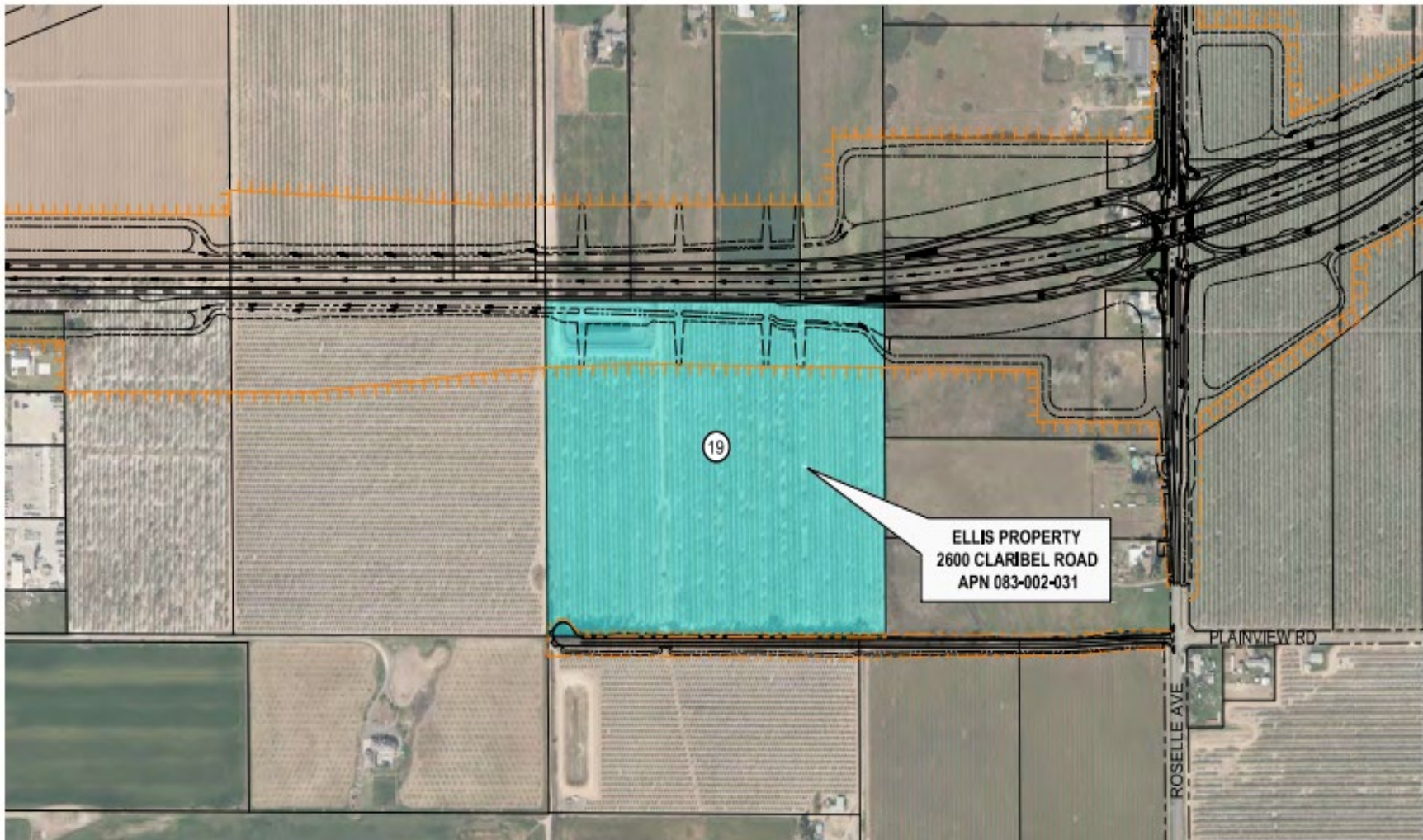
Project Limits

Ellis Trust / Big Sky LLC



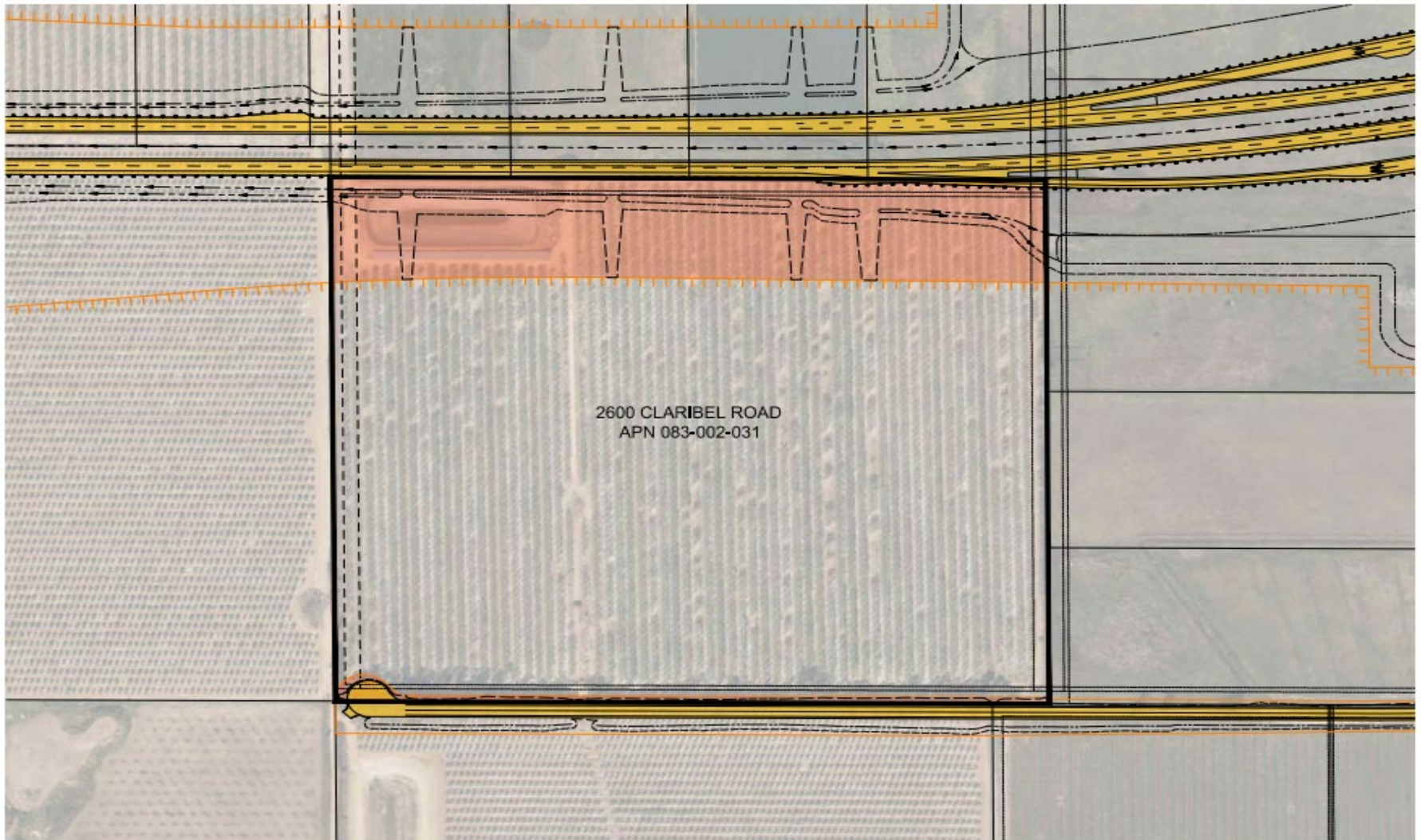
Project Limits

Ellis Trust / Big Sky LLC



Project Limits

Ellis Trust / Big Sky LLC



Project Approvals, to Date

APNs 083-002-031, 083-002-041, & 083-002-042

Ellis / Big Sky

- Caltrans approved the CEQA/NEPA Environmental Documents and Route Adoption on May 22, 2020
- These actions confirmed the alignment (1-B) and created and approved the North County Corridor Project

Public Interest and Necessity

APNs 083-002-031, 083-002-041, & 083-002-042
Ellis / Big Sky

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- Support efficient movement of goods and services
- Enhance traffic safety

Greatest Public Good & Least Private Injury

APNs 083-002-031, 083-002-041, & 083-002-042

Ellis/Big Sky

Through rigorous environmental study and public outreach:

- Project has been designed to maximize the benefits to the public at large while minimizing impacts to private property owners.
- A thorough analysis regarding the need for each property interest was conducted in the Project's planning stages.
- Project team has worked diligently to minimize the need for property acquisitions.
- Alternative 1-B is the alternative which is planned and located in the manner that is most compatible with providing the greatest public good and least private injury.

Key RON Findings Required

APNs 083-002-031, 083-002-041, & 083-002-042

Ellis / Big Sky

- Public interest and necessity require the North County Corridor Project – Phase 1 – Final EIR / EIS Approved May 22, 2020
- Project is planned in the manner that will be most compatible with the greatest public good and the least private injury
- The subject properties are necessary for the Project
- Offer has been made to the parcel owner(s) to be acquired

Staff Recommends

APNs 083-002-031, 083-002-041, & 083-002-042 Ellis / Big Sky

1. Find that the public interest and necessity require the North County Corridor Project.
2. Find that the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. Find that the subject properties APN 083-002-031, 083-002-041, and 083-002-042 (Gregory and Karen Ellis Revocable Trust, Big Sky Investments 3, LLC.), described in the Resolutions attached to the Staff Report are necessary for the Project.
4. Find that the offer required by section 7267.2 of the Government Code has been made to the parcel owners of the properties to be acquired.
5. Adopt a Resolution of Necessity in the form attached to the Staff Report as Attachment 1.
6. Authorize County Counsel to initiate eminent domain proceedings to acquire the subject property.